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VII

THE MADRAS IRRIGATION BILL, 1922.

The hon. Sir K. SRINIVASA AYYANGAR :—" Mr. President, I move that the Madras Irrigation Bill, 1922, * be read in Council. It will be within your recollection, Sir, that this motion was adjourned from the December sitting to this sitting in order to give an opportunity to the public to consider the Bill, which is somewhat technical, and to make up their minds on it. I have had no criticisms on the Bill except a memorial presented to-day—a supplementary memorial, it is stated—since the date of the adjournment of this motion from December last. On the date when this motion was posted in December, a memorial was submitted by the Landholders' Association which I considered with all the care that is due to a memorial from such an important body. As I expressed on the last occasion, I found a considerable amount of misapprehension was entertained with regard to the provisions of this Bill, and I took this opportunity to clear those misapprehensions. For that purpose I have issued a memorandum to the Members of the House which, I hoped, would have cleared all the misapprehensions entertained in regard to this Bill.

" I just now had an opportunity of glancing at the supplementary memorial, and I confess, Sir, that apparently the memorialists are still under the same misapprehension. I have, in my memorandum, drawn attention to the urgent need for this legislation and for putting on the Statute Book an Irrigation Law defining clearly the rights and responsibilities of the State. As I have stated there, Sir, it was impossible for us to look at any large schemes costing large sums of money without having a precise definition of the rights and responsibilities of the State. It has become even more emergent now because we have really reached the limits of irrigation from natural sources or through artificial channels without a very large storage. At present, considerable quantities of water are naturally flowing into the sea without being utilized as they ought to be, and, I am afraid, that this state of things must continue until we have a definition of our rights and liabilities. That is the emergency for having an Irrigation Law, and it is long over-due as is known to all who have anything to do with the subject.

" I have stated in the Statement of Objects and Reasons the various attempts made in this province to regulate the law relating to irrigation by means of a statute. Other provinces have had their law long ago and they have been progressing very fast indeed in the construction of reservoirs and in the regulation of natural waters so as to make the best use of those waters. In the Punjab for instance, they have been irrigating something like nine millions of acres, while in this province where artificial irrigation has been going on from time immemorial, the total comes to only seven million acres. In these circumstances, and in view of the fact that I have really made a speech in my memorandum, I do not propose to trouble the House long except to explain what I consider to be the main principles of the Bill. They are contained in a few clauses, and I can state for the information of the House what those principles are. The first and foremost is the stress laid on the duties of the State to utilize every drop of water which can profitably be utilized for the purpose of irrigation in this province. As a corrollary to this duty it is necessary to vest in the State the right—and the State in this

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country has always possessed that right—of regulating, collecting and distributing the natural waters which otherwise will flow into the sea. This is the primary principle on which the Sovereign in this country from time immemorial has acted, and it will be seen, Sir, that this principle is embodied in clause 6 of the Bill. The second principle which is embodied in the Bill is that in the exercise of the paramount duty which the State owes to the citizens, especially in this country where the State claims by virtue of a prerogative a share in all the produce raised on the land, it imposes on them a corresponding duty of giving water for the purpose of artificial irrigation to raise those crops. But it is necessary that this regulation should not affect the previous rights conferred by the Government in virtue of that power, whether it is in favour of the landholder, whether it is in favour of the ryotwari tenant or whether it is in favour of the zamindari ryot. That is the second principle, namely, that in the right of regulation, collection and distribution of natural waters which the State possesses as a paramount prerogative, they shall not, when at any particular time they exercise that prerogative, take away the rights which they themselves have granted prior to such regulation. Ample provision is made, as I shall show presently, for the purpose of conserving the rights which are existing at the time when this assumption of control in virtue of the prerogative is taken by the State. Along with this there is the other principle, namely, if it becomes necessary to make the very best use of all the waters in the interests of the State—and it really means in the interests of the largest number of their agricultural subjects—then the State not merely in this country but all the world over possesses the right of what is called *eminent domain*. It is not a right as suggested in the memorial 'to rob Peter to pay Paul', but it is really a right 'to buy Peter on the most generous terms in order that thousands, nay, hundreds of thousands and millions of Pauls may live and prosper.' These are the three main principles and the others are merely consequential on these three principles and are intended for the purpose of carrying them out. I am sure none in this House, and, so far as I have read the memorial, none among the landholders are objecting to these principles. It is stated that the first principle, namely, the paramount right of the State, has been defined in terms far wider than that which has been accepted by any law or custom in this country. I challenge that statement, Sir. It is entirely due to a not very careful examination of the few words at the beginning, namely : 'Subject to the provisions of this Act.'

"Before I read that clause, I want to state to the House with some precision what exactly this prerogative of the State means. I do not want to inflict on the House a technical lecture on the Law of Irrigation. I am myself doubtful on a large portion of that, and that is why I am obliged to bring in a Bill for the proper definition of 'Irrigation rights'. But these principles are well-known and have been repeatedly recognized both by the judicial decisions and by the custom of the country.

"This right to collect, regulate and distribute all natural waters is a necessary incident of the situation of this country. I want to remind the House that in this country, unlike in England, you have to conserve water for artificial irrigation ; while the trouble in England is to drain the water or to get rid of it as a nuisance. This is fundamental and makes it necessary that this water which will otherwise go to waste in the sea should be utilized for artificial irrigation.

"I shall not now pause to dilate upon the common law doctrine as it is called of riparian rights in England except to say this, viz., that according to

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the strict doctrine, as now enforced in England, no person can take a drop of water, however abundant it may be, to what is called non-riparian land. He can only use it for a small margin of land abutting or adjoining a natural stream or a natural pond or lake. If that is the theory which is to be adopted in India, not merely all the existing ancient irrigation works will have to go to ruins, but it will be impossible to give artificial irrigation to any piece of land which hitherto has not had the benefit of it, to say the least. It is, however, undoubtedly true that large quantities of water are taken from natural streams and used in the interior for interior lands. In such drawing off of water we have had from ancient times large storage reservoirs, large artificial channels for such irrigation, and, especially in the Madras Presidency, you have some very ancient works from which waters have been diverted into the interior land which alone has contributed towards the prosperity of the Province. I would say that otherwise life would have been impossible in major tracts of the country. Now I ask this question: who was it that diverted those waters for the benefit of the large agricultural population of this Province? Facts and history show it was the State or the agents of the State or its subordinates. They show clearly that it is the sovereign power that did it, that regulated it, that took it to the interior and supplied the water for the purpose of raising agricultural products. And the State did that duty because, as I said, they took a share of the produce as their due, not by virtue of the land taxes, but by virtue of the State prerogative which the British Government now enjoys as inheritors of the prerogative from the ancient sovereigns. This being conceded, it is clear that there must be some authority for the purpose of that collection, and for the purpose of that distribution so as not to create a breach of the peace, as otherwise there would be, if you are giving to individuals the right to divert as much water as they think necessary. That at once brings you to the basis of this State prerogative to regulate, to collect and to distribute these waters. For, as I have said, this is one of the essential duties of the State in this country and it is a recognized one.

"Now, Sir, before I go further, I want to draw the attention of the House not to any technical matters but to the use of the expressions in which this prerogative of the State has been recognized or stated. I would draw attention to an Act of the Government of India, the Easements Act, on which the right of the riparian owners is mostly based in this country. It does not state what the State rights are, but all persons who had anything to do with that Act were fully cognisant of the claim of the State to this prerogative. As without that statement the other provisions of the Act might appear to derogate from that claim, a special saving clause was provided in section 2 of the enactment, viz.,

> The right of Government to regulate the collection, the retention and distribution of the water of rivers and streams flowing in natural channels and of natural lakes and ponds or of the water flowing, collected, retained or distributed in or by any channel or otherwise constructed at the public expense for irrigation.

"This is practically what I have got in section 6.

"Now, the question as to what precisely is the extent of the prerogative of the Crown—the prerogative has been acknowledged throughout and nobody has questioned it—had to be decided as a definite issue in what is called the Perani Dam Suit. There has been no decision either before or after which in any way derogates from the position taken by the learned judges

in the Perani Dam Suit. I would go further. The Privy Council, in dealing with the question of Government water in what is called the Urlam case—the charter on which the landholders base this memorial—recognized that the law of India as regards riparian right is different from the English law as stated in 32, Madras. They accepted the position. I may state without inflicting a technical lecture upon you that this variation from the English law, of the doctrine of riparian rights, is due to the fact that water has been used and necessarily used in this country in interior lands, and to use it for interior lands you want State regulation. It is this which was laid down in the Perani Dam case; it was accepted by the Privy Council, and has been the law of the Province. What then was laid down in the Perani Dam case as the limits of the prerogative of the Government? I am emphasizing the words 'the limits of the prerogative' for nobody to-day questions the fact that the State has got a prerogative. The only complaint that I find from the memorial of the landholders is that it is stated in broader terms than the common law of the land. The question is stated at page 154 of 32, Madras and that and not the *ipso dixit* of the memorialists is the authority on these matters—I am afraid I am arguing like a lawyer before a court, but I cannot help it. The question arose definitely for decision in that case and hon. Members may take it from me that this question had not come up before a court for decision in any case. 'This case had raised the broad question and it is a question of first importance as to whether Government have power, by the customary law of India, to regulate, in the public interests, the collection, retention and distribution of waters of rivers and streams flowing in natural channels and of waters introduced into such rivers by means of works constructed at the public expense and in the interests of the public for the purpose of irrigation.' That is practically word for word what we have in the Indian Easements Act, and practically what we have got in clause 6 of the present Bill.

"Now I am coming to the next sentence which is really important.

> Provided that they did not thereby inflict sensible injury on other riparian owners and diminish the supply they have hitherto *utilized*.

"I want the House to mark that language—'hitherto utilized'—and I claim that I have not merely made provision for that purpose—that is the second principle—but I have amplified it beyond any existing decision or existing recognition of anybody's right. I want the House to mark the words 'hitherto been utilized'. The question is answered at page 156—that is a citation from another decision of the Madras High Court:

> It is amongst the most important functions of the Government of this country to construct new works of irrigation and to maintain old ones according to the means and circumstances.

"'Irrigation works were carried out on an extensive scale by the ancient rulers of India.' If, as I shall show presently, the strict doctrine of riparian rights as prevailing in the common law of England were applied here, those works would have been impossible. 'This is an historical fact and affords no small assistance in dealing with questions of this sort. We have considered the rights of the parties under the law as it stands to-day. There is one fact, however, which is beyond the range of controversy and that is, that the Perani anicut in the Vaigai river was originally constructed by former rulers for the purpose of diverting the water of the natural stream into the Vadagai channel for using it in the interior lands'. That at once brings it into conflict with the riparian right, because nobody is entitled to use a single drop

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of water for any interior land, whatever might be the rights *inter se* as between proprietors on the banks of the rivers to use the water for what is called riparian land. There is another fact beyond the range of controversy. The Government, in discharging the duties which rest upon them in connexion with works of irrigation, have always exercised the right to divert the waters of natural streams. That again is wholly inconsistent with the doctrine of riparian rights prevailing to-day in England :

> And in this Presidency, at any rate, we think we are right in saying it has never been held that in so doing they had violated the rights of private owners of land, unless, 'the party who alleged himself to be aggrieved was able to prove that the amount of water which he had been accustomed to *utilize* had been diminished.'

" That is, if a particular owner, whether he is a proprietor, occupier, tenant or ryot, was in the habit of drawing off water for utilizing it whether for riparian or non-riparian land, that will come under the regulation which had previously been passed by the Government. That would imply a grant by the Government though it is possible under the modern law to acquire a right against the Government by a sixty years user. Remember this, that at the time when the regulation comes in he must have been utilizing a certain quantity of water, and if the Government, by virtue of its right to regulate, takes away that right, then, of course, it is infringing on that right, and it cannot do so even by virtue of its prerogative. Then they go on to deal with the particular facts of the case :

> The rights of Government with regard to controlling the water of a natural stream stand upon a different footing from the rights to interfere with the water of artificial channels in which easement rights have been acquired by third parties.

" Here again, whether you call it right of easement, whether it arose out of a grant by the Government by virtue of their prerogative of regulation, or whether it was acquired against the Government by reason of adverse enjoyment for sixty years under the modern statute, I want to emphasize this fact, that every one of these rights which you can set up, subject to which alone the Government can exercise their right to regulate or control the water, can only be in relation to the water which you have been utilizing on the date on which this regulation was assumed. That is fundamental, and this alone restricts the right. It is subject to that and that alone that this prerogative is exercised. The distinction is pointed out by Innes, J., in *Ponnuswami Thevar* v. *the Collector of Madura* reported in 5, M.H.C. Reports, which I find is referred to in this memorial in more than one place. I thought that I had cleared that confusion in my memorandum, but, to my surprise, I find it has been repeated in the memorial just presented which I have glanced through. That very judgment is referred to in this judgment, and Innes, J., who was one of the most learned Judges and had much experience, not only of the law of easements in England, but also a very considerable knowledge of the actualities of the situation in this province, says :

> I quite admit that the Government of this country has at all times assumed to itself and has the right in the interests of the public to regulate the distribution for use of any portion of the water flowing in the natural channels in which rights have not as yet been *acquired*.

" This is important because this is the case on which the Landholders Association relies. That is the only limitation we have had upon the right of the Government. I shall show presently that this imaginary riparian right, which I find the Landholders Association are suggesting in one or two places of their memorial is not recognized at all, and, if recognized, it will be

quite contradictory of the prerogative of the Crown. So the learned Judges take their stand upon the customary law of this country which again arose out of the necessities of the country and they recognized the limitations or the way in which this prerogative of the Crown can be exercised. In order that my position may not be misunderstood, even at the risk of repetition, I want to emphasize this. State regulation, as I said, is for the purpose of regulating natural waters. In the interests of irrigation in this country, without which there can really be no life in most portions of this country, the State has always taken upon itself this right to regulate the waters. This regulation cannot be exercised at one time but will have to go on from time to time as the necessities of the country require as the financial resources of the Government enable them to construct irrigation works or to distribute the water for the benefit of the agriculturists. Now, by virtue of that regulation, if they had allowed a particular person—I am using a word which will include all categories of persons who own land—to take water if they had already granted rights to water from natural streams or from artificial channels, they have constructed, then the subsequent regulation can only be subject to that. The right must have been *acquired against the Government* by virtue of a grant or in modern law by virtue of adverse enjoyment for sixty years. It is only subject to that right that the further regulation can be exercised. That is to say, when once by virtue of that right, the State has conferred rights on third parties it cannot withdraw that right by virtue of a further regulation. It is really inherent in or part of the principle.

"There is a third right to which to this extent there is no question and that is the natural right in waters which is a doctrine of the English Common Law connoted by the term 'riparian rights'. They are not acquired by any person from the Government or the State, but are the natural rights of the person who is in occupation of the land bordering upon a river. Now, the question is how far that right can be exercised consistently with the State right of regulation? I shall show now that I have fully recognized that principle in this Bill more fully than any existing decision. I have dealt now with the case in 32, Mad., which states precisely the qualification for the exercise of the prerogative of the State. I am going further in this Bill; as you will see, I am recognizing riparian rights to the fullest possible extent consistent with State regulation. I am afraid I will have to trouble the House with a little bit of technicality as to what the term 'riparian right' means. The term 'riparian right' connotes a positive and a negative aspect. By virtue of this right an owner of even one inch of land —the right does not depend upon the quantity of land possessed, or upon whether you are the owner of the bed of the river or not, but depends upon the access to the waters flowing in the river—touching a river, if he has access to the water, is entitled to exercise the right. The riparian rights, as understood in England and as indicated in the Indian Easements Act which is in force in the Madras Presidency, which, by the way, it is important to remember, saves the rights of the Government, connote two things. One is that the riparian owner can utilize portion of the water as is flowing past his land for irrigation purposes provided he leaves enough for lower proprietors. That is the positive aspect. That same riparian proprietor, whether he is using that water or not, whether he will in future use the water or not, is entitled to prevent, whether he has sustained any injury or not, any third party from outside from taking the water over to the neighbouring land. That is the negative aspect of it. If this aspect is to be

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enforced in India, it would mean that there could be no irrigation whatsoever. I have till now been explaining that that is not the law in this country, and nobody has ever pretended that that can be the law of this country. Not even the memorialists—I am referring to the memorialists because they alone have offered criticisms on the Bill—lay any such claim. So, the negative aspect can be left out of consideration, and I shall pass on to the positive aspect of the right. In connexion with this matter, something is said in the memorial about the American doctrine of appropriation. I do not want to inflict a lecture upon that doctrine, but I shall merely say this. In what is called the arid regions of the west in America, where irrigation is absolutely necessary, they have turned down this so-called Common Law doctrine of riparian rights prevailing in England, though in some of the States they recognized to a very qualified extent the positive aspect of the rights of the riparian owner, namely, to utilize a reasonable quantity of water as it flows past his land for irrigation purposes provided he does not substantially diminish the quantity of water flowing down. You will see that even this positive aspect will send out vast quantities of water which are flowing in the natural rivers straight to the sea without being utilized by anybody. It is a dog-in-the-manger policy which, I am sure, even the members of the Landholders' Association will not approve and I am glad they repudiate the policy justly enough. But see what changes have taken place in regard to the so-called riparian ownership doctrine both in its negative and its positive aspects in what are called the arid regions of the west. After all, you must remember that this doctrine of riparian rights was developed in England as a custom of the country that which is now known as the Common Law of England, developed sensibly by generations and generations of people to suit the conditions there. I may at once draw the attention of the House to a summary of what this right means and how it has been changed in the arid regions of the west. It is nothing peculiar to America, for the climatic conditions which necessitate irrigation in other parts of the world have led to similar legislation there. Fortunately for us in India we do not want legislation but we put it as a State prerogative and the immemorial custom remains. Unless I tell the House what the riparian right as understood in England means, my further argument, that I have made ample provisions in this Bill regarding it, will not be appreciated, and hence I have stated briefly what the term connotes. I have provided for the interests of all who can ever claim any riparian rights in this Bill, and I even go further in favour of landlords. This is the law of riparian rights or riparian ownership as regards irrigation. I am not going to trouble you with the various other rights which come under the designation 'riparian rights'.

Under the Common Law doctrine (that is, the English doctrine) all property in watercourses and inland lakes, whether the same are actually navigable or not, is held sacred to the common use alike of all riparian owners, upon their borders, as an incident to their ownership of the soil; (that is, they, and they alone, are entitled to utilize the water flowing naturally or the natural collection of water), that the nature of their ownership of the water itself is simply usufructuary.

"You cannot sell the water to somebody else; you cannot say: 'I am entitled to a particular quantity of water flowing in the river which I can use for irrigation purposes, instead of using it shall sell it to another so that he may use it wherever he likes.'

And that each proprietor may reasonably use the water for any purpose as it passes through or by his land; but always provided that he must, after having used it, return it

without substantial diminution in quantity, or any material change in quality, to its natural bed or channel before it leaves his own land so that it will reach his neighbour below in its full original and natural condition.

"I am pausing here. What does it mean? It means that you can use the water reasonably; but there are limitations. You cannot use it anywhere else than in the riparian land. You cannot use it unless you can send back the water, undiminished in quantity and without polluting it, into the same natural bed. It would be impossible to have any real irrigation in this country under similar conditions, for it would be impossible to send down without diminution the whole quantity of water without substantial diminution as it leaves your land.

"That, Sir, is the English doctrine of riparian ownership. If you are going to apply it, it is not going to be of any use even to the riparian owners of this country; for, when you irrigate, a considerable quantity of water is absorbed in the land and you cannot possibly send it down without material diminution in quantity or quality. Moreover, the doctrine will prevent anybody else from diverting that water with the result that all the water will flow into the sea. I am not in any way exaggerating; and the summary which I read to you is in precise accordance with the law laid down in the Indian Statute. I am going to read to you section 7 of the Indian Easements Act.

"It starts by saying 'Easements are restrictions of one or other of the following rights'. Those are called natural rights and one such natural right is that contained in clause (*f*).

"It reads:

(*f*) The right of every owner of land that, within his own limits, the water which naturally passes or percolates by, over or through his land shall not, before so passing or percolating, be unreasonably polluted by other persons.

"Then the next is:

(*h*) The right of every owner of land that the water of every natural stream which passes by, through or over his land in a defined natural channel shall be allowed (this is important) by other persons to flow within such owner's limits without interruption and without material alteration in quantity, direction, force or temperature.

"It would be impossible to send down water to the lower owner undiminished in quantity. Of course, I do not mean to say that you cannot take even a cup of water. It must be a substantial diminution which is noticeable. If you do that, then you are not within your rights. You can acquire that right only by easement and not by virtue of a natural right as a riparian owner. Then, we have to take it along with clause (*j*) which reads:

(*j*) The right of every owner of land abutting on a natural stream, lake or pond to use and consume its water . . . for irrigating such land, and for the purpose of any manufactory situate thereon, provided that he does not thereby cause material injury to other like owners.'

"You have got to read this along with the previous clauses. It looks like a conundrum and you have got to tally the two rights. That means you can make a reasonable use of the water in your riparian land for irrigation purposes provided you let down the water, when it leaves your land, undiminished in quantity to the lower owner. I would ask anybody here who is acquainted with agriculture to try and do that, that is, to irrigate and yet send down the quantity substantially undiminished to the neighbouring land. That, of course, is possible in England, because, as has been pointed

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out, there what you have got to do is to drain the water and not to conserve it for any irrigation. Now, owing to this impossibility of having any real irrigation in arid regions where natural water has got to be taken to the interior land and there consumed to the diminution of the water in the stream, the doctrine arose that they should come in under some State control for the purpose of having a proper distribution of water for all persons who would want it for the purpose of agriculture, irrespective of the fact that some persons owned land along the stream and some elsewhere. I would merely as a test, or rather as a standard, read to you a few passages as to how other counties have solved the problem, which we solved by vesting the prerogative in the State to collect, distribute and regulate all waters in natural rivers. I shall read to you a few clauses from the Statutes of the State of Wyoming which are considered to be almost perfect on this matter:

> The waters of all natural streams, springs, lakes and other collection of still water within the boundaries of the State are hereby declared to be the properties of the State.

"Here they have got regulations; they have got irrigation boards, State engineers, division of the district into water districts for the purpose of allocation of water which is flowing to interior lands. Before the Statute was made in 1889, the law Courts there, without any legislation, discarded what is called the common law doctrine of riparian ownership in England. The reason was this:

> The riparian rights in the State of Wyoming may be considered to have been wholly abandoned. The physical condition which is arid to the extreme and the land absolutely valueless without the diversion and application of water upon it would not permit of the Common Law theory of riparian rights.

"That has been the law here from time immemorial not by virtue of any statutory rights but by prerogative which has developed owing to similar necessities of the State.

"Now, Sir, I have taken the law, from the decided cases and embodied it here to define the prerogative right. Now let me turn to the clause to which objection has been taken. This principle of State regulation is embodied in clause 6. I am going to draw the attention of the House to the limitations contained in the Bill of this doctrine of State regulation in order to provide for all existing rights acquired not merely at the time when the State began to regulate, but also for future prospects of irrigation by virtue of natural right which has not been acquired. This, Sir, is really in advance of all recognized rights.

"'Subject to the provisions of this Act' that is important and should be borne in mind. The other portions I shall refer to immediately:

> the Government are hereby declared to have the paramount right to regulate at their discretion for purposes of irrigation or drainage the collection, retention and distribution of the water of any river or stream flowing in a natural channel or of any natural drainage-channel or of any lake or other natural collection of water, or of the water collected, retained, or distributed in or by any tank, reservoir, channel or other work constructed, maintained or controlled by the Government.

"Practically I have used word for word the language of the Indian Easements Act which has been stated to be the law by the decision of a court in which that question arose and which, as I said, has been adopted by the Privy Council in the Urlam case as being the correct law of this Presidency. I have also stated that it is based upon ordinary common sense and that the prerogative is a necessary corollary of the duties of the State which has been recognized in this country, without which no Government would have been

possible and the prosperity of this country would have been impossible. Now, I say I am making provision for all limitations of that doctrine. As I have told you before, that limitation comes in because you, by virtue of the regulation, have granted or have licensed persons to take the water for the interior land or for the neighbouring land and to consume the water there for the purpose of irrigation. Before I go further, I want the House to pause and consider what exactly was the position of the State at a time when the zamindari settlement had not come into force. Again, I would ask you to pause to consider who is the person who will in strict law be entitled to what is called the riparian rights? It is not the proprietor; it is not the State; it is the person who is in occupation of the land. The right of a riparian owner goes along to the person who is in occupation of the soil, and it is he who is entitled to cultivate. Supposing you have got the doctrine, what will happen? As I told you, it is only the riparian owner that can have the riparian rights and he can have the riparian rights only for the riparian lands. If therefore there was an occupier there and there were also occupiers behind, the occupiers behind cannot touch a single drop of water. Supposing you give the overlordship over all these persons to a zamindar or a chief tenant, what happens? The chief tenant cannot have any riparian right over the interior land. His ryots also cannot have riparian rights over the interior land and the only person who will be entitled to the riparian rights will be the ryot in occupation of the riparian land. Will the landholders be content with that? Will they say we shall not have any right to the water except for the land which is occupied by a particular ryot? They will not. I am not in any way overstating the case. Before I go further, I may as well refer on this aspect of the question, to a decision of Mr. Justice Sankaran Nayar which has been overruled but on which the memorialists lay great stress. He points out quite clearly that this so-called riparian right will not exist, and he also points out that the riparian right referred to (that is the riparian right under the English Common Law) is to depend upon vicinity and consequent right of access. 'This power' he says, 'does not generally vest in the Government or the zamindars. It vests perhaps generally in the ryots. Moreover this riparian right will not entitle the Government or the zamindar to use the water for the cultivation of lands not in the vicinity, while it is undoubted that they have been doing so from time immemorial.' What becomes of this English doctrine of riparian rights? This is the judgment, Sir, which, as I said, was overruled and which is relied on by the memorialists.

"Now the limitations I provide under clauses 7 and 8. Clause 7 gives power to the Government to assume control of the natural waters. I shall deal with another portion of it, viz., where it gives power to the Government to assume control of private works of the zamindars, subsequently. It is there that the question of *eminent domain* comes in, not for the purpose of preventing the zamindar from having his own works free from all interference by the Government but to assume control where it becomes necessary in the larger interests of the province that a particular tank or a particular system of tanks should come in alongside with a large irrigation work which Government projects for the benefit of the general agricultural population. Then this will come in into that scheme and the zamindars or the landholders and their tenants will have as much irrigation as they had before through this new irrigation system. Therein comes the settlement of mamul wet. It is

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for that purpose that we want control. Now look at clause 8. I claim, Sir, that I have given full effect to the Urlam decision in that clause. After an issue of notification under clause 7, that is when the Government chooses to exercise its power of regulation at a particular time, they can use it with regard to any natural stream or with regard to a portion of the natural stream. Then what happens?

> No person shall construct, restore, remove or alter any dam, weir, embankment, sluice, channel or other work in connexion with such water or work without the sanction of the District Collector and no right to any supply of water from any such river, stream, natural drainage channel, lake or other natural collection of water or from or through such work shall, as against Government, be deemed to exist or be acquired, or to be deemed to have been acquired except to the extent to which such water has been appropriated prior to the issue of the notification.

"Now, Sir, I am using this word 'appropriation' instead of the words 'utilized before'. This word 'appropriation' is a very much larger term than the utilization which was postulated in the case in 32, Madras. That is, I am not merely allowing you the quantity of water which you have been actually using in the land, but I am giving you the whole quantity of water which was flowing into the irrigation system of which you had the benefit at the time of the permanent settlement or grant. That is the decision of the Urlam case, but the Urlam case had nothing whatever to do with any State regulation over what I would call the unappropriated waters by virtue of their prerogative to collect and distribute natural waters. But all that the Urlam case decided was that there was a grant, either implied or express, from the Government that a certain quantity of water which may be measured by the existence of certain irrigation channels and that the Government are bound to allow that quantity of water to the zamindars; i.e., to the extent to which they have been appropriated, it is the zamindars' water. You cannot subsequently by virtue of this right to regulate take away the water with which you have already parted. That necessarily, as I say, is an incident to the exercise of the right. Now, I explain what this appropriation means:

> The water of a river, stream, lake or natural collection of water or natural drainage channel shall be deemed to have been appropriated where such water is supplied directly to a defined artificial channel above ground for purposes of irrigation, such channel not being one constructed, or maintained or controlled by the Government. The extent of such appropriation shall be determined with reference to the size of the channel and the nature and extent of the sluices and weirs governing the amount of water which enters the channel.

"This is all important, because it goes further than the Urlam decision. In the Urlam decision what the proprietor was held entitled to was to have the same quantity of water let in his irrigation channel as they existed in the year 1802 or at the time of the grant. The decision does not make new law. It was merely the application of the undoubted law, viz., if A chooses to part with a portion of his immovable property, he is parting to the vendee all the ameneties of that property. If it had irrigation previously, and if it is necessary for the purpose of the enjoyment of that property, he is entitled to have that water. The difference between the Government and the proprietor was this. The Government, for the sake of convenience, restricted the grant to the actual quantity of land then irrigated, i.e., at the time of the grant. But the Privy Council said, notwithstanding the fact that at the time of the permanent settlement only a certain limited quantity of land might have been irrigated by the water flowing through the channel, the zamindar can by doing better, i.e., by saving that water, improve irrigation and bring fresh land under irrigation. Mostly it would be by enhancing

what technically is called the duty of water. Ordinarily, with regard to these old systems, one cubic foot of water per second is able to irrigate 25 to 40 acres of land. Sometimes it goes as low as 10 acres. Ordinarily it ought to be at least 70 acres. In all new irrigations, or if you remodel the old irrigation system with the same quantity of water, you can sometimes irrigate five times the quantity of land you have irrigated. What the Privy Council said was he is not confined to the quantity measured in acreage which was cultivated at the time of the grant but he is entitled to the system of irrigation with which you granted the land. Now, Sir, I have in this clause provided that he shall have not merely that but the whole quantity of water which at the time when the Government assumes control was flowing into the system. So he is entitled to a larger quantity of water. Now, I have also made provision for the enjoyment of water which may have been utilized subsequent to this grant. There, Sir, I have recognized rights beyond what the existing decisions give, the right to appropriate water, the natural right to appropriate the water as a riparian owner. That is with regard to future irrigation. You will see that this principle which is embodied in clause 8 is carried out in various other portions to which I shall now draw the attention of the House. One of the provisions is in respect of what is called mamul wet land. Here again I wish to draw the attention of the House to the wording of the clause. Clause 34 says :

> It shall be lawful to the Government to levy a cess upon all land to which water is supplied or upon which water is used for purposes of irrigation from any irrigation or drainage work.

" Now, I want you to turn for a minute to the definition of irrigation work so far as the natural waters are concerned. The definition says :

> The whole or any part of a river, stream, lake or natural collection of water or natural drainage channel, to which the Local Government have applied the provisions of section 7 of this Act.

" So till Government assume control the natural waters do not become an irrigation work at all and you have not to pay a single rupee of cess until the assumption of control. That is generally the case in clause 34. Supposing Government have assumed control, what happens ? The proprietors are entitled to free water for the largest quantity of land which they have been able to irrigate in any year during the last 125 or 130 years. That is till the time that this control is taken you are entitled to have it whether you had the same previously by grant or not. Therefore you have the full benefit of the water which has been flowing till the time of the control. Then I give you for prospective irrigation also. I want now to read to you clause 55 which provides for compensation. If, in the exercise of the prerogative of the Crown, the Government assume control of any natural waters, the proprietor has the right to use the waters which he had till then appropriated ; not in the sense ' utilized ' but in the sense that it has flown through his irrigation system. I have allowed all the waters which have been running before the control is taken whether they were previously utilized for irrigation or no. I also allow the natural or the riparian right which is compounded by means of the compensation. Sub-clause (*d*) of clause 55 says :

> Provided that no such claim shall be admissible where the irrigation work is a river or stream flowing in a natural channel, or in a natural drainage channel, or a lake or other natural collection of water, unless the estate in which the land is situate abuts on or is adjacent or subjacent to such irrigation work and the land is riparian land.

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"I have not given any definition of what a riparian land is. I have now drawn attention to the limitations which limit the prerogative. The main principle, then as I reminded the House, is the power taken to regulate the collection, distribution and the construction of irrigation works for the purposes of the agricultural population as a whole.

"That right is provided for in clause 6. That is not an absolute right; for in the exercise of that right the previously existing rights are not taken away. Here I wish to emphasize the words used by Mr. Justice (Innes) in the earlier case, where he says 'unless rights have been acquired'. He was quite familiar with the English doctrine and he was a very experienced Indian Judge. When he says that, he was presumably using precise language. I have gone even beyond that. I claim that in the framing of this Bill I have gone far beyond what has been recognized as being the rights of the landholders, and this Bill has been framed so anxiously that by no possibility anybody can say that his rights are being affected.

"I shall now deal with the second paragraph of clause 7 which has been considered to be a grievance. It is this. Power is taken in this clause to get control of certain private irrigation works. The question has been raised 'why on earth should you go and take hold of the irrigation works of a proprietor, for it is his duty to keep them in order and supply water for the *ayacut* under the tank?' Government are not going to interfere where the irrigation work is supplying water wholly to the tenants of the particular proprietor without its coming into line with any particular irrigation work which the Government may project in the interests of the general population of the country. I may at once instance the case of the construction of Gōdāvari or Kistna anicuts. Prior to this there were large tanks situated in proprietary estates through which new canals had to be taken with the result that those old tanks became either useless or had been spoiled. What did the Government do? Those canals were intended to give water to a very large number of the cultivators of the land. To make the water go as long as possible we had to take the channel through particular irrigation tanks. Then, in such cases the zamindar or the proprietor will have water free for the same ayacut from the Government irrigation source. It can only be for the benefit of the landlord that such a control should be taken; because it will improve the water-supply and give better facilities for the irrigation of his land. It seems to me that it is necessary for the Government to have a free hand in re-aligning a channel and distributing the water to the best interests of all people concerned. That, Sir, is the principle on which the second clause has been framed. It is a necessary corollary to the duty of the State in the distribution of water to the best interests of all concerned and it is not intended to take away any water rights; and after all, the Government are not going to interfere with an irrigation work where it is solely for the benefit of the tenants of a zamindar or of a proprietor but they will interfere only in cases where it is necessary to do so in the interests of a larger population, when they are constructing a huge reservoir, or when they propose to construct channels miles in length for the distribution of water. If, for instance, there is an irrigation work wholly situated in a zamindari and if they are small tanks irrigating only small ayacuts, I am sure Government are not going to spend money on them. But suppose there are large irrigation works, and though it is the duty of the zamindar to keep them in

order, he does not do so. Then, in the interests of the people concerned, let the Government take over charge of them, repair the tanks and keep them in order for the benefit of those tenants. It is stated that the landholders are bound to keep the tanks in order. How are they to be compelled? The section in the Estates Land Act, as stated in my memorandum, is quite useless. It is this: in the case of irrigation, tanks which are not kept in repair by the landholder, that is, where he has not performed his duty of supplying adequate water for the whole of the ayacut under the tank, a provision is made enabling the ryots to join together, make an application to the Collector asking him to direct the landholder to repair it. If the landholder does not do it, the tenants can do it themselves. After they have completed the work, the tenants are entitled to take the difference between the dry rate and the wet rate and realize the amount spent by them together with interest at the rate of 6 per cent per annum and as soon as this is done the landholder is entitled to claim the full wet rate. In effect, what this means is this: the ryots join together, make a loan to the landholder, charging interest at the rate of 6 per cent per annum, for the purpose of getting the tank in order. After this is done it is for them to recoup the amount they spend out of the rent they have to pay. Again, if the landholder says 'I am content with dry rates', there is absolutely nothing in the Estates Land Act which can compel him to get the tank repaired. I therefore respectfully submit to the House that the question is not whether the landlord chooses to forego a certain portion of his rent; but the question is a far more vital one, viz., whether the Government can make adequate provision if the landholder has failed in his duty. This power is necessary for the Government if any large irrigation works such as long channels or large storage reservoirs are to be made possible. This control would become necessary where these small tanks situated in proprietary estates come into line with large ones and such a control must be assumed by the Government in the interests of the larger agricultural population as a whole. Even as between the landlord and his tenants, if there are a large number of tenants, I do not see any objection to Government interference, if steps are not taken by the landlord to keep the tank in repair. As I have said before, the principles which I claim are embodied in the Bill, will not be gainsaid by anyone. If anyone finds, by analyzing the Bill, that these principles are not adequately expressed, I for one will not object to change the language in such a way as to express those principles clearly.

"Chapter III deals with the control and supply of water. Some apprehension has been felt with regard to clause 12. Here as well as in any other place where control is taken, it is the principle of eminent domain that is introduced in the Bill; that is, where you require in the public interests to buy out a particular interest of a particular person, we have to pay compensation and acquire under what may be called acquisition proceedings. All these provisions and powers are all provided for so as not to injure any particular person, by clause 48, which says:

> Except as otherwise provided in this Act and subject to the provisions hereinafter contained, compensation shall be awarded in respect of damage caused by the exercise of the powers conferred by this Act.

"This is the principle of eminent domain which has been embodied in this Bill. There is no use in reading a particular clause and say it affects

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particular individuals. Private rights will not be affected without compensation. This has been recognized in all countries and must necessarily be recognized here.

"I wish to make one further observation. Under Chapter IV regarding water courses, facilities are given to persons who want to take water for the purposes of cultivation. Without it it would have been impossible for any private person to construct such a water course. Land Acquisition Act would not help him. At the same time, due provision is made to hear all legitimate objections and to deal with them. Chapter V relates to water-cess. We have repealed the old Act which has given rise to an amount of litigation which involved not only the parties but also the Government in large expenditure. We have avoided all ambiguous expressions. I do not think I need trouble the House with the other chapters, for I have dealt with them in my memorandum. As I said before, if in any particular place effect has not been given to these principles or to the necessary consequences that follow—those are all matters of detail and matters of language—they can be settled in the Select Committee, and I for one, if these principles are accepted, will not mind in what way the language is changed. Make any provision that you want if it is necessary for safeguarding the interests not only of the landlords but also of the ryotwari tenants and the tenants under the zamindars. This power of control shall not interfere with any vested interests which are recognized by Statutes or by judicial decisions. With these remarks I leave the Bill in the hands of the House."

The hon. Sir CHARLES TODHUNTER :—"I second the motion."

Mr. S. R. Y. ANKINEDU PRASAD :—"Mr. President, Sir, I beg to oppose the motion of the hon. the Law Member on various grounds.

"In the first place, no satisfactory reason has been stated for enacting a measure on the lines indicated. The want of legislation that has been stated by the Irrigation and Famine Commissions has, to a great extent, been obviated by the law having been settled during the course of this half a century and more by the highest judicial tribunals both in this country and in England, and all the futile contentions advanced by the Government of the day regarding their rights have been knocked on the head after great expense and trouble. The Government comes now with a Bill to circumvent the beneficial results that have been won after hard contest. In any country, having full self-government, such a thing will not be possible.

"Beyond the vague assertion that the Bill is necessitated by the recommendations of the Commissions referred to, not a single instance has been pointed out by the Government as necessitating a statute like this. What is lacking in substance has been sought to be supplied by having recourse to a few platitudes on the necessity of having a certain law on the State's rights of water-supply; it is also stated that the projected works which are ready for execution have been hung up for want of an enactment of this kind. This is indeed a hollow pretence. Never has this plea been put forward by the Government in reply to the several questions that have now and again been put in this Council regarding the projects in question; to wit, the proposed extension of irrigation in the Divi taluk by lengthening the Valluru Bank canal has not been undertaken as yet, though representations were made

several times within the past twenty years by the ryots and landholders concerned. At every time the answer given was that the matter was under the consideration of the Government, though the project could not cost more than a few lakhs of rupees, bringing a profitable return on the money invested. What has really stood in the way of these projects is finance, in respect of which our position to-day is not a whit better, if not far worse than before.

"On even a cursory reading of the Bill, one cannot but be struck by the extraordinary assumption of the power of royal prerogative that lies behind the all-embracing provisions of clauses 6, 7 and 8. These clauses are as wide as the provisions of the now repealed Press Act, which was said by Sir Lawrence Jenkins to be capable of embracing anything between the earth and the heavens The Government seem to have derived their idea of prerogative from the decision in 32 Mad., 141—the Perani dam case. They seem to conveniently forget that that decision has not stated all the rights of the State in the distribution of water at all. If, as is assured by the Government in clause 6, they have the right of distribution and control of water-supply in natural streams even in proprietary estates, how comes it that the proprietors are stated by the Privy Council (vide 1, Appeals 385) to be under a public duty maintaining existing irrigation works and constructing new works and that all the old regulations place the zamindar under an obligation to supply water to their ryots? It has also been stated that the decision in 24 M.L.J., 384, has been overruled in 29 M.L.J., 389. No doubt the decision is overruled; but, so far as I can see, the observations of Sir Sankaran Nair have not been dissented from. But what about the view of Scotland, C.J., in 5 M.L.H. C.R.P., 6? From this decision it will be seen that the prerogative right of Government to regulate or distribute the waters of rivers and streams can be exercised only to the extent to which specific rights in those waters have not been acquired by other owners. This right ought not to be confused with the ordinary natural right of every riparian owner with which only the Perani dam case now deals.

"Further, it is against commonsense and against the law in England or America (where also large rivers exist) to say that you have control over rivers or streams of which you are not the owners. The ownership of water, as in the case of all liquids, depends on the ownership of the places where they are. The ownership of a river depends on the ownership of the beds and banks. So, the Government cannot have a shadow of right over streams in proprietary estates. The Madras Government alone asserted the right to the ownership of the rivers irrespective of that of the river, and they sustained a defeat in the Urlam case. The fifth report and all other regulations were considered by the Privy Council. The view in 32 Mad., 141, by which the Government lay great store, was no doubt against the view of the law, but it must be considered to have been overruled by the Privy Council in the Urlam and Bobbili cases.

"Next, this declaration of State rights in clause 6 destroys the effect of the saving of the rights of zamindars, inamdars, etc., in section 2, clauses (*a*) to (*e*) of the Madras Encroachment Act.

"The Government in 1856, as is stated in the Statement of Objects and Reasons, never understood the common law of the country in any other sense. They wanted to have a law on the footing, viz., that rivers and natural streams, as well as springs in unoccupied or Government land, belong to Government. So, the law, even from the earliest times, is not as stated in 32 Mad.

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"As regards clauses 7 and 8, such power of compulsory acquisition nowhere exists in England or America, where also large rivers abound. It has been pointed out that such occasions of acquisition will be few and far between. Such palliatives do not deceive anybody. Now, does such a power exist anywhere else in India? As regards the assumption of natural sources of irrigation in non-Government tracts, the matter has already been dealt with in connexion with clause 6. The view in 29 M.L.J., 389, referred to above, must be considered to have been overruled by the Full Bench decision in 42 Mad., 239, and by the Judicial Committee in the Bobbili case in 43 Mad., 529. The Privy Council definitely accept the common-sense view of the ownership of rivers and streams in the above cases and also in the Urlam case. Next, there is no parallel for the compulsory acquisition of private works, the second class of cases referred to in clause 7. In this connexion, the Government entirely forget the obligation of zamindars to their ryots. If, however, such a power of compulsory acquisition is to be retained, it cannot be given to the Government in such sweeping terms as stated in clause 7. In that case, though general provision for assumption of control of private works may be stated in clause 7, yet it should be provided that the provisions of clauses 7, etc., should be applicable to each river or any irrigation work (whose value may be fixed if necessary) only by a separate act of the Legislature as each occasion arises, so that the Legislature may scrutinize whether such assumption of a private work is not arbitrary.

"Analogy may be found for this procedure in connexion with water-work schemes in England. Coulson and Fabes in their work 'The Law of Waters' point out that such power is taken by water-supply companies by private Acts which incorporate the Water-works Clauses Act of 1847 and the Land Clauses Consolidation Acts of 1845, 1860 and 1869.

"The only right preserved to the owner is in respect of the water appropriated prior to the issue of a notification under clause 7. It is strange that what is discarded as impracticable in the Urlam case should again be sought to be applied in clause 8. Some years hence, when a notification is issued, it may not be possible to determine the exact amount of water used. The Government here allow the riparian right of landholders, by which their right to the use of water is not restricted in this way—vide the Bobbili case. They fasten all their arguments on a single extreme decision in 32 Mad., 141. Again, the compensation conditions in clause 55 do not recompense what is lost by compulsory acquisition, as is the case under the Land Acquisition Act. It is to be noted that owing to various causes, such as indebtedness, the largest area has not been irrigated in the past, and so the compensation to be given under the Act is nothing more than shadowy.

"In this connexion, clause 55 may be disposed of. It has been stated by the Privy Council (Urlam case) that prospective irrigation also has been taken into consideration in fixing the *peishkash* at the time of the permanent settlement. If under the guise of safeguarding the interests of the province as a whole you are slowly driving the thin end of the wedge to destroy the sanctity of the fact that is involved in the settlement, you cannot say that your future irrigation is to be confined to the year 1923, the year of your enactment or the date of notification. In thus treating the settlement as a scrap of paper, you are joining hands with those extreme politicians who want to lay their axe at the permanent settlement and augment the revenues of the State. It may be that in a large number of cases, the quantity of

water used at the settlement cannot be definitely known, but where there is no adequate data to find it out, you delimit the landholders' right to the area irrigated on the crop raised, especially when it is commonly known that all the landholders have not utilized all that is possible for them for various reasons. To say that you are entitled to so much water is quite different from saying that you are entitled to so much acreage free of cess. There is no necessity to convert the test of water into one of acreage. The Government pretend that they have been very liberal in allowing water for non-riparian use also. But it will be readily seen that permanent settlement was not confined to riparian use alone—vide Urlam case. Besides, the Government, as the custodian of all rights, whether zamindari or otherwise, should have been in possession of facts to show how much water was used by the landholders at the settlement. The Government being a party to the contract of the settlement should show how the right given to the landholders has been exceeded by them in issuing more water.

"Not only does the Bill seriously jeopardize the rights of landholders, but it also affects the privileges and liberties of the citizen. The supply of water is at the sweet will of the new Irrigation police officer, called the Irrigation Officer. He has, by virtue of clause 12, unlimited power to stop the supply of water so long as he deems it necessary. Of course, the purposes for which he can exercise that power are stated. But they will be respected in the breach rather than in the observance. Especially, he has power to stop supply whenever a water course is not maintained in such order as to prevent waste of water. Such powers only make the pecuniary appetite of the Public Works Department keener and leads to much corruption and abuse.

"Again, clause 95 creates a new order of Public Works Department police. We have already the ordinary police, but this Public Works Department police armed with the power of detention for 24 hours, is an extraordinary inroad on the liberty of the individual.

"Then we have a sly revision of the Water-cess Act. Here, as has already been pointed out, the two important points won in the Privy Council have been done away with in Chapter V. Power is taken by the Government to enhance the water-cess even in cases of settlement wet and mamul wet, when improvements are effected by it. This is entirely a new provision necessitated, it is said, by the recommendation of the Irrigation Commission. Here again, there is a breach of faith. For, in the case of both the wet lands referred to, according to the decisions, there is an implied engagement not to enhance the water-rate. By the omission of the word 'engagement' in the Water-cess Act, the Government tries to achieve this result of enhancement. Besides, the obnoxious provision of charging water-rate for percolation has not been deleted. Who is to determine the mamul wet? Water will be supplied free of water-cess to such land as is recognized as mamul wet by Government. How the Government recognizes mamul wet is stated in clauses 46 and 47, and there again the civil court's jurisdiction is ousted; this is a very objectionable feature of the Bill.

"Under the heading of customary labour, a system of Soviet Government on a small scale is to be introduced. Chapter X is socialistic. It casts on every occupier of land the duty of filling up cracks, of undertaking repairs even in ordinary times and not in emergencies as stated in Chapter IX. Among ryots, there are a number of respectable and influential people

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and they cannot all be compelled by the State to keep the channels, etc., in good condition. It is, as it were, creating a new system of Public Works Department special police. If the ryots do not voluntarily perform these things, the work will be done by hired labour and the cost will be recovered by the ryots. Instead of all this, a cess, something like a punitive tax, is proposed to be levied in clause 69. It is a very objectionable feature of the Bill.

"In Chapter XI we see irrigation panchayats placed on a statutory basis. So far so good. But these panchayats will be invested with all the powers of the Irrigation officers. Especially in factious villages, the power of arrest given under clause 95 will be an engine of oppression.

"Lastly, there is a deliberate attempt to oust the jurisdiction of the civil courts in almost all matters. Especially this attempt in the matter of mamul wet and the settlements before 1917 is to be deprecated. Even otherwise, the creation of a special tribunal is most unsatisfactory, and thereafter the court's jurisdiction is ousted. The constitution of the court is not at all satisfactory. It includes a revenue officer, an engineer and a non-official. It does not contain any judge having experience in civil litigation. These special courts cannot do justice as we have seen in the case of the special courts under the Estates Land Act. Neither the Revenue nor the Public Works Department officers will have the requisite knowledge or legal training to do judicial work. They may at best advise a judge.

"From all that I have stated I trust that the hon. Members will clearly see that the provisions of the Bill under discussion are not only drastic and revolutionary in character but are also opposed to the fundamental principles of the Permanent Settlement. For these reasons I beg to oppose the motion."

Mr. T. SOMASUNDARA MUDALIYAR:—"Mr. President, I consider it my duty to express my protest against this Bill, which affects zamindari and ryotwari holders alike. The zamindars, though comparatively small in number, are strong enough and sufficiently organized to put forth their case and voice their grievances, and they have already submitted memorials to this House and issued pamphlets, which clearly show that they have a just cause of complaint against the Bill. The grievances of the ryotwari holders are greater, and if the Bill is passed, it will seriously affect the welfare of millions of land-owners, large and small; and as one representing them, I shall be failing in my duty if I do not record my strong note of dissent and urge the hon. Members of this House to reject the Bill.

"By this Bill the hon. the Law Member attempts to settle questions which have been agitating the minds of the public from the middle of the last century: the question whether the Government or the mirasidar is the owner of the land, the question whether what is paid by the land-holder to the Government is revenue or rent and allied questions. It is true that in the settlement accounts the lands are described as Government lands as distinguished from *inam* lands. But now an attempt has been made to declare by a legislative enactment that all lands, except estates, are Government lands, and that the owners thereof are only registered holders.

"There is another matter which appears to be more serious, and it is this. According to sub-clause (4) of clause 4, any land that is not an estate is Government land and a registered holder is the person in whose name

Government land is registered in the revenue accounts. I need not inform the hon. Members of this House that only lands paying revenue are registered in the revenue accounts and house sites are not so registered. What about these? House site is Government land and there is no registered holder here. Even naturally one is led to infer that the house sites belong to Government. In fairness to Government I hope this was not their intention. What I have stated is but one instance of the confiscatory nature of this measure, and it is more far-reaching in its consequences than it appears to be at first sight; and if this Council, constituted under the Reforms, allows this to be put in the Statute book, it will entirely shake the confidence of the people in the Reforms and the Legislature and will make them think that the Legislature is a new machine of oppression designed to impoverish the people.

"At this stage, any detailed reference to the provisions of the Bill is not called for. The Bill may be characterised with full justification as a Bill of expropriation. As the hon. the Author of the Bill himself says, it is intended to rise over the decision of the Privy Council as regards ownership in water. The Government claims ownership of all waters, even rain water. Even surface water can be claimed by Government. The Government takes to itself the power of taking even wells under their control. All vested rights of irrigation can be taken away under clause 12 as Government takes the power to deal with a man's land as any of its officers may please. Government may dump mud or materials on a man's land. Government may commandeer material and labour, and any hon. Member of this House may find himself called upon on a fine morning to carry mud or brick under clause 57 and for disobedience he may find himself in jail for one month under clause 58.

"Chapter V dealing with water cess requires notice, and it will be no exaggeration to say that water cess will be payable by a person even if he does not want water. Any well may be declared to be an irrigation work by Government under clause 7 and then for taking water from that well cess can be levied.

"Chapter VI deals with the construction and maintenance of irrigation works and the guiding principle in such undertaking seems to be remuneration. The functions of the State, such as the advancement of the welfare and prosperity of the subjects, the spread of cultivation and furtherance of the growth of the material prosperity of the country, seem to have been completely ignored, and the Government is degrading itself to the position of a commercial venture. The provisions are sought to be applied to improvements of existing works also. We shall take the case of lands already registered as wet and paying wet assessment. The Government is bound to supply water for the irrigation of these lands. The Government itself has admitted that the irrigation and drainage in several places in the Tanjore district are defective and improvements must be made at an early date and even estimates have been sanctioned for some. Under the Bill the Government will be entitled to throw the burden of the works on the ryots and this shifting of Government's responsibility and exacting money for what they are bound to do cannot be justified.

"In Chapter VIII Government shirks responsibility for default in the performance of its duty. For instance, sub-clause 2 (*c*) of clause 48 says that Government is not responsible for omission to repair irrigation or drainage works. Suppose a head sluice of a big irrigation channel breaks

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down and Government does not repair it for say one or two years, all the lands under the channel will not be cultivated and the Government will not be responsible for it. This cannot be allowed.

"Chapter IX deals with *Kudimaramat*. Under Kudimaramat it is sought to include works which ought to be done by Government and which are now done by Government. Clearing sand even in rivers and big channels, removal of prickly-pear and rank vegetation even in the embankments are to be done by the land-owners at their cost. This is another instance of Government shirking its responsibility. 'Rights with no corresponding duties' seems to be the principle of the Bill.

"The Bill further seeks to oust the jurisdiction of civil courts. Hereafter the Government is to be judge in its own cause, or you may have the farce of a trial by a tribunal consisting of a revenue officer, an officer of the Public Works Department, and an indifferent third man who may not be better than the previous two. This is a retrograde step and cannot be criticised too severely.

"These are but a few of the considerations which induce me to condemn the Bill and I call upon the hon. Members of this House, in fairness to themselves and in fairness to the mute millions they represent, to reject the Bill and condemn it to the rusty racks of the Secretariat."

Rao Bahadur Dr. C. NATESA MUDALIYAR:—"Sir, Mr. President, I oppose the introduction of this military measure which should have been thought of in the early days of the British Empire, and not after a century and a half of peaceful settlement. I oppose this Bill in spite of my realizing the fact that an irrigation legislation is a necessity to extend our irrigation work, to benefit our agriculturists, to develop irrigation schemes, and to prevent our splendid rivers from wasting their waters into the sea so that the irrigable area may be increased. Now only seven million acres are irrigated in our presidency."

At this stage the Council rose for lunch.

The Council re-assembled at 2-30 after lunch.

Rao Bahadur C. NATESA MUDALIYAR:—"Mr. President, Sir, I was saying this forenoon that I opposed this Bill in spite of my realizing the fact that irrigation legislation is a necessity to make large irrigation works that have been completed and over which a large amount of capital has been sunk, pay a return and not to allow the landlords and agriculturists to escape scot free though the supply of the number of *cusecs* of water to their fields has increased enormously and also to prevent water from being wasted by the ryots by regulating the water in such a way as to allow them the necessary quantity and to divert the rest to the lands of the ryots which go uncultivated, and to make the landlords or the zamindars pay for the increase of water they are having owing to the improvements in our irrigation works constructed by the Government. But I am not willing to interfere with the prescriptive rights earned by the zamindars whether they cultivate the same area which they did at the time of Sannad or they extended tenfold. I admit the paramount right of the Government to collect, regulate and distribute water; but, at the same time, it must be conceded that this paramount right is subject to the rights obtained by landholders and agriculturists from grants or by prescription. Sir, this Bill reiterates the paramount

right of the Government, but makes no provision for the satisfactory settlement of such rights. Of course, there is an appellate authority, but we know what these appellate authorities are. 'I see no reason to interfere with the order of the day' is the view of all these appellate authorities. I object to the Bill for the drastic way in which it is presented. All the explanations offered by the hon. the Law Member will be hidden in the proceedings of the Legislative Council and it is only the clauses of the Bill that will stand before a court of law. I object to the arbitrary powers given to the executive. In this Bill the executive are everything and the ryots are nothing. May I request the hon. Member, whose sympathies for the poor are well known as was evinced beyond doubt by the City Tenants' Protection Bill, to withdraw this Bill now and bring it in a more acceptable form?"

The RAJA OF RAMNAD:—"Mr. President, I rise to oppose the motion for leave to introduce this Bill. Since my hon. friend, the Raja of Devarakotta, has referred to the legal aspects involved in this Bill, I shall confine my remarks to a few of the observations of the hon. the Law Member. In the first place, Sir, we are at a considerable disadvantage in having the Law Member in charge of the Irrigation Bill. He said he was addressing this House as a lawyer and, in fact, he has been addressing this House only as a lawyer and not, as he ought to, as an administrator.

"Before I refer to the position of the zamindars under the Bill, I should say that some of the arguments of the hon. Member in charge of the Bill are not quite convincing. He said that it would be impossible to undertake large schemes of irrigation without the help of this Bill. In such a case the remedy is very simple. If it is not possible, do not do it. Then the hon. Member said that all the available Government water had been made use of and therefore what was now sought to be done was to get hold of water belonging to private persons."

The hon. Sir K. SRINIVASA AYYANGAR:—"It is a mistake. What I said was that we have reached the limits of ordinary irrigation and cannot improve irrigation without large storage works."

The RAJA OF RAMNAD:—"It is true that they cannot do without large storage works, but the difficulty is they want to do it with the aid of waters belonging to other people. It is to this that I strongly object. No doubt it is the function of the State to afford irrigation facilities to the people and better their conditions. If the Government want to take away the water belonging to private persons, they may as well say that rich people or bankers should not have more than what is required for their bare necessities and that they should spare the surplus for removing the huge illiteracy of the country and bring in a piece of legislation to that effect. The justification for this one will be the same as in the other.

"The hon. the Law Member also referred to State control. Sir, I would like to ask him what is meant by State control and sovereign power in this country, where, so far as my knowledge of history goes, there has not been one sovereign power all over the country before the advent of the British administration. The country was then divided into a number of independent states under various rulers. Now, where is the provision for the appropriation of the water of a river passing through a native state? Higher up the native state limits and lower down it may be a river belonging to Government, but what about that part of the river flowing through the

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native state. What is the remedy of the hon. the Law Member for preventing the native state from claiming the water? The position of the zamindars is just the same. Judicial decisions have held that the river flowing through a zamindari is the zamindar's and they have, subject to riparian rights, recognized the rights of the zamindar to that river. The hon. the Law Member has not proposed any solution to the question in relation to the native states through whose territories natural rivers flow.

"The hon. Member has told us about the Perani dam suit. I may claim some knowledge of the case because I was a party to it. The only question there was whether the Government had the right to raise the dam to a certain height. That was the chief issue raised in that case and there was no question whether the Government could deprive the zamindars of the water to which they are entitled. Therefore, I think, Sir, that the decision in that case has no application to the circumstances of the present Bill.

"The hon. Member also said that if **A** transferred his property to **B**, all the incidents to the property passed along with it. Therefore, after the permanent settlement, all the control which the Government should have had over the properties of the zamindar should have been forfeited and that is the view taken by the Privy Council in most of the cases. In the Statement of Objects and Reasons attached to the Bill, it is stated that the Urlam case has rendered all irrigation work of the Government impossible. I only say, Sir, that the Government ought to devise some other means and not seek to flout the opinion of the highest judicial tribunal in British administration, the Privy Council. The Government ought not to treat the decision which was obtained after considerable time, trouble and expenditure so lightly by introducing this Bill which will have no other effect than to negative the decision of the Privy Council in the Urlam case.

"One more point I wish to say. If this Bill is passed it will be an absolute plunder of private rights and vested interests while placing many of us under the tender mercies of the minor irrigation officers. It will absolutely revolutionize the tenure in this country; and particularly at the present time I think, in the interests of the Government as well as those of the people, it will be highly inexpedient to have this Bill passed into law. Therefore I strongly oppose the motion for leave to introduce the Bill."

Diwan Bahadur D. Seshagiri Rao Pantulu:—"Sir, I think there is no difference of opinion on the point that the State has the power to regulate irrigation in this country. Some of the judicial decisions, and especially the Urlam case, have unsettled the law on this point, and it is absolutely necessary that we should have a definite view of the rights of the State and of the subjects. From this point of view, I welcome this Bill. If vested rights have in any way been affected, surely the Select Committee can so alter the Bill as to make it acceptable to all alike. The only way in which the improvement of the country can be affected is by increasing the irrigation sources, and the Government will not be prepared to increase the irrigation sources unless the law as to its rights is settled beyond all doubt. We are all clamouring for the development of this country. Our country is not an industrial one, but it is mainly an agricultural one. Under these circumstances, the duty of aiding the Government in all its attempts to improve the agricultural resources of the country is imperative. No doubt

the zamindars have some vested rights in these streams and rivers, but the wording of the Bill can be so altered as not to interfere with these rights. I believe provision is already made in the Bill respecting the rights of the zamindars.

" Coming as I do from the Godavari district, where the Government have done something for improving the irrigation sources, I shall be failing in my duty if I do not support this Bill with all my heart. I know the tract of country which is benefited by the Government works, and I also know the tract of country in the same district where there are no such facilities. I am deeply touched by the difference between these two tracts. The famines, though they have not been recognized for the past two or three years by the Government have made a great havoc in the northern districts. What do I find there? I find the people in the deltaic portion of the district are simply rolling in wealth whereas their unfortunate brethren in the uplands are suffering from want of even drinking water. Therefore I think some solution must be found to relieve the distress of the people and that solution lies in the improvement of irrigation sources such as the Bill has in view. I think the Bill is conceived with a view to help the prosperity of the country, especially because the prosperity of the tenants and the prosperity of the tenantry are also the prosperity of the zamindars. A discontended tenantry is a certain source of danger to the aristocracy. We all pretend that this Council is run on democratic lines and as such is it not the duty of every one of the Members of the Council to promote the welfare of the people and to secure a contented tenantry thereby also securing the safety of the aristocracy?

" We have heard of the irrigation sources in the Kistna and Godavari districts. Side by side with these districts we have got the Vizagapatam and the Ganjam districts; and what do we find? For the last five or six years, we have been witnessing the influx of a large number of paupers from the Vizagapatam and the Ganjam districts which lack in irrigation projects. People are even now clamouring, and, if you allow them, they are prepared, at their own expenditure, to extend the Godavari irrigation from Samalkot to Tuni with a view to insure themselves against recurring famines. Under these circumstances, I submit with all the earnestness at my command that this Bill should not be dropped. It aims at the prosperity of the country, and let all people take advantage of it. It is quite a fashion to say that the Government are not doing anything for the betterment of the country; but when they do make an attempt to ensure the prosperity of the country, it would be a thousand pities if you throttle it. Of course, there are some provisions in the Bill on which we are not agreed, but that is no reason why alteration should not be made and the necessary safeguards should not be provided so as to make the Bill more acceptable. The Select Committee can do that work. Of course, I am no admirer of the executive portion of the Government and I am also interested in seeing that many cases come before a judicial tribunal for adjudication. But these are all minor details which can be attended to in the Select Committee stage. For instance, whether the courts have to settle the amount of compensation, whether the tenant is liable to pay for *kudimaramat*, all these are questions which can be properly discussed in the Select Committee. With these few remarks, I give my hearty support to the Bill."

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Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I rise to support the Bill whole-heartedly. After hearing the exhaustive, full and clear statement made by the hon. the Law Member, I was wondering whether there was any reason to object to the Bill being read in the Council at this stage. Even after hearing the objections, I am unable to convince myself that they are really valid. In the first place, the question that is to be considered at present is whether the principles underlying the Bill are acceptable or not. The details may be looked after at the Select Committee stage. I listened very earnestly to the objections raised, but I could not find any against the principles underlying the Bill. The Bill wants to make the law relating to irrigation quite clear and definite. The prerogative of the Crown to collect, regulate and to distribute water has been established firmly, and the Bill aims at getting rid of the fruitless litigation that has been going on in this presidency. I think both the zamindars and the ryots will be really benefited by making the law certain and definite as regards the rights of the Crown and of the subjects. That is the first point and I think there will be no real objection to that principle.

" The second point is that the Government want to take the control of certain natural streams and artificial storages of water for the purpose of giving greater facilities to the people at large. It is the saddest experience of everybody that in several of the zamindaris the tanks have been left unrepaired for centuries together. The lands that have been classed as wet are not cultivated for want of irrigation facilities. What do we find in the zamindaris in the case of lands that have not been cultivated ? The zamindars have no mercy at all on the ryots and they collect the full assessment on even uncultivated lands. It is within my experience that the zamindars have completely neglected their duty of providing irrigation facilities for their ryots. If we just go and see the Karvetnagar and the Kalahasti zamindaris we can verify this. I am sure this is also the case in several other zamindaris. If the Government now want to take control of all the irrigation sources and improve them, not only for the prosperity of the ryots, but also for the prosperity of the zamindars, I cannot understand on what principle the zamindars can come forward and object to the introduction of the Bill.

" Well, Sir, some objection has been raised regarding the provisions of this Bill for *kudimaramat* and the employment of labour. No doubt, Sir, the existing Act is absolutely useless in regard to these points. I know, Sir, that the Act of 1858 is very defective. In my own district there is a tank very close to the headquarters division. Once it was breached, and every man who was approached for help in building up a dam to prevent the water flowing out gave some excuse or other. Hence, I say, the present provisions are absolutely useless. Therefore it is that power is taken to effectively repair these tanks and to compel labour for that purpose.

" As I already said, Sir, we are not at present going into the details of the Bill. The only question before the House is whether the principles underlying the Bill are acceptable or not, and I repeat that the principles are eminently desirable and satisfactory. Most of them have been settled by law and I think that they tend to make the position of the zamindars much safer than it is at present. I am quite sure that the Bill will in the long run bring about greater facilities for irrigation, and a greater acreage under

cultivation will give greater relief to the suffering masses and will ensure the prosperity not only of the ryots but also of the zamindars. I appeal to the House not to be short-sighted and not to raise any objection against the reading of a Bill which is intended in the long run to bestow benefits on the people greater than what they now enjoy. With these few observations I beg to give my hearty support to the introduction of the Bill."

Mr. S. ARPUDASWAMI UDAYAR :—" Sir, it is admitted on all hands that a larger area should be brought under cultivation and that in the Madras Presidency there is room for bringing at least nine million acres under cultivation, that is two millions more than what are brought now. It must also be admitted that we have certain economic problems, such as the increase in prices and the periodical recurring famines in the northern regions ; and unless we have a more plentiful supply of food-grains, it will be difficult to tackle these economic questions. We must also realize that, before the introduction of the Periyar project, Madura, too, was subject to periodical famines and Tanjore was a great granary for the supply of rice to that district. After the Periyar project was completed we know that a really great blessing has been conferred on the people of Madura, that a large area has been brought under cultivation and that Madura can hereafter afford to stand on its own legs and be no longer dependent upon other districts. Again, Sir, there is the question of the poor ryots who may have purchased lands or obtained some on *darkhast ;* and they all want their lands to be irrigated. We have also another class of ryots—those who toil hard in dry lands and who have to depend on the monsoon, and, if once the monsoon fails all their labours prove unavailing. Then, again, we have the question of the elevation of the depressed classes. If the colonies which are founded for their advantage are to be really flourishing, we must have recourse to certain works which will carry water to these colonies. Therefore, putting all these things together, all are agreed that some means should be devised in order to extend the irrigation facilities to as large a tract of the province as it is possible for us to do.

" But, I fear, Sir, that the hon. the Law Member, in laying stress upon certain paramount rights of the Government, introduced elements rather dangerous in the sense that he has put in such big points as riparian ownership, riparian rights, paramount rights of the Government, etc. All these questions are, to the layman at any rate, bewildering. Why should the State be dragged in ? Why should it come with all the majesty of power, and why should the Irrigation Department be centralized and look like a colossus. There lies the weak point, and I think the most satisfactory arrangement will be for the Select Committee, to which the Bill will be referred, to emphasize that one point, namely, that the irrigation panchayats, which are to be introduced, must become realities, that they must have real powers, and that these powers are to be placed on a statutory basis ; so that instead of having that terrible fear of the rights and powers of the State on the one hand and of the zamindars losing their rights, etc., on the other, it may be possible for the House to arrive at a *modus vivendi*, to strike a *via media*, and see to it that the rights of the zamindars are respected, that the State also has the right of regulating, storing and distributing the supply of water and that, above all, all fear that the Irrigation Department may become a source of tyranny is removed by these irrigation

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panchayats becoming really useful bodies with vested powers and being consulted. This tripartite arrangement, where the power is not monopolized by anybody, will, I believe, satisfy the House and will enable this Bill to be pushed through this House and reappear with such modifications and alterations as will go a great way to allay all the fears now entertained by the various parties. The zamindars fear that their rights may be interfered with and the ryots also fear that they may be deprived of their primary right of partaking of the bounty of nature and participating in all natural gifts.

"Where the zamindars fail to do their duty towards their ryots, it should be possible for the Government to step in and better the condition of the ryots. I know from actual experience that especially in zamindari areas where the permanent settlement has been introduced, it is open to the zamindar to double the revenue, treble it or even raise it tenfold. But such an enhancement of revenues must, justly speaking, go hand in hand with the improvements made to enable those ryots to contribute to the enhanced revenue. Therefore, it won't do to speak of the rights of a particular body or class. Rather, we should speak of the rights of the teeming millions who cannot have their grievances heard. Now, this Irrigation Department and even the State are very often amenable to the influence of the zamindars, but not so amenable to the influence of the poor ryots (hear, hear). Therefore, what is imperatively needed is that the Bill, when it is referred to the Select Committee, should be modified and altered so as to become a real source of blessing to the teeming millions accepting at the same time the rights of the proprietors.

"The hon. the Law Member himself admitted that if there were defects in the language of the Bill he was prepared to rectify them, and that, if there were to be difficulties arising from or consequent upon certain expressions which were not very clear or which admitted of controversy, he was prepared to introduce the necessary changes which would satisfactorily allay the reasonable fears and suspicions of the Members of this House. Therefore, the question is whether a Bill of this nature is necessary or not, and whether the principles embodied in it make it altogether unnecessary. I think that is the question which one has to answer. We are here on the threshold of a new legislation, and if we absolutely reject this Bill, we may perhaps absolutely deprive ourselves of the opportunities of bringing a larger area under cultivation and of benefiting those thousands of people who are looking forward to some beneficial measure to be introduced in this House. If there are apprehensions, I think, it is possible to have them allayed by introducing such modifications and changes as will, even materially here and there, alter the character of the Bill and enable it really to confer a great blessing upon the people of this province. I do not therefore think that the principles of the Bill are really very dangerous and that they do not admit of being presented in such a form as to be acceptable to the people. On the whole, I support the principles of the Bill."

Mr. S. T. SHANMUKHAM PILLAI:—"Sir, at this stage I rise neither to support nor to oppose this Bill. Though I am not in favour of certain provisions of the Bill, I do not question the necessity or the expediency of a comprehensive law on the subject of irrigation as was urged by the Irrigation

Commission itself. But in regard to the relative positions of the ryot, the zamindar and the Government, what Mr. Munro writes is this :

By the ancient law of the country, the ruling power is entitled to a proportion of the annual produce of the land or to the equivalent of that proportion in money.

In one of his minutes written when Governor of Madras Mr. Munro defines the relative positions of the ryot and the Government in these words :

The ryot is certainly not like the landlord in England, but neither is he like the English tenant. If the name of landlord belongs to anyone in India, it is to the ryot. He divides with the Government all the rights of the land. Whatever is not reserved to the Government belongs to him.

" Now, I may offer a suggestion which may go towards the expansion of the revenue. There are lots of minor sources of water, small rivers and streams that waste a lot of water into the sea. I drew pointed attention to these when I was a member of the old Minto-Morley Council. A resolution has recently been put in to the effect that the Government should issue early orders to the Collectors to have all these little rivers, jungle streams, etc., examined, to prepare and submit schemes for the improvement of water-supply wherever practicable, to prevent the waste of water into the sea and to divert it into proper channels either to supplement the existing sources of irrigation or to open new irrigation sources. I think this can be done without extra expenditure by the existing establishment, which may be asked to submit schemes for the sanction of Government.

" The Government, under clauses 6 and 7 of this Bill, want to take powers to exercise control over natural streams and rivers, but I doubt whether a law is necessary on the point. Now, the tracts through which enormous floods pass every year come, properly speaking, under the term ' village common ', and there is no objection to the Government taking them up and carrying out the necessary improvements, just as they are doing in the case of forests. They have been reserving forests not for commercial purposes but in the interests of the ryots to improve their agriculture, and also in the interests of public welfare. Similarly, the Government can undertake the improvements of all the minor rivers, jungle streams, etc., and utilize their waters. I am afraid clauses 6 and 7 may injuriously affect the interests of the poor ryots who are now benefited by Standing Order No. 10, which runs as follows :

Jungle streams or natural pools.

No extra demand under the denomination of *Tiruvajasti* or *Faslijasti* or any such term will be made in addition to the regular assessment on the land on account of advantages derived from irrigation supplied by natural pools or jungle streams always provided that the use of such water shall not interfere with or tend to lessen the supply to any Government work and that the right of Government to execute at any future time any works whatever for the improvement of such sources of supply and for the extension of these benefits shall remain unaffected by such intermediate usufructuary enjoyment.

" What I am afraid of in regard to clause 8 is that the Government may begin to levy water-cess on cultivations raised with the aid of the water-supply from jungle streams. Now, as matters stand, no water-cess is levied on water from jungle streams, and this has been the practice followed for many years. The Bill is silent on this particular point, namely, as to what Government will do until they make improvements or make a new construction for the diversion of the water from these jungle streams, etc.

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"Next, with regard to water-cess, so far as ryotwari tenure is concerned, now, whenever a second-crop is raised, they charge *faslijasti*, and the Government is bound to give water for wet cultivation. But whenever there is a failure owing to a loss of crop or the land is laid waste, the grant of remission is justified by the rules, and the ryots can claim remission. Under this new Bill whenever they improve a source of water-supply, they can also charge an extra water-cess. Of course, there is a provision already in the Board's Standing Orders that when a second-crop is raised, the Government can charge *faslijasti*, and again under this new Bill they can charge an extra amount when they make improvements. This, I think, is unjustifiable.

"The hon. the Law Member explained in detail what the riparian rights were so far as zamindari areas were concerned, that is, as a result of the Urlam case and the decision in the Privy Council, which lay down the right of landholder to utilize the water flowing by the side of his land. To what extent he can exercise such right it does not state clearly. To what distance from the river such right can be exercised is not also clear. Now, I know personally that in the Gandamanayakanur zamindari there is an anicut across a river. The river rises and runs within the zamindari and it extends to 7 or 8 miles. By means of that anicut water can be supplied to a distance of 7 or 8 miles.

"To what extent the landholder can exercise the right and to what distance from the river, the Law Member did not say. For instance, I know personally the abovementioned anicut has now gone to ruins and become useless altogether. It was supplying water to a distance of seven or eight miles. Now the lands are lying waste or bearing only dry crops. Then, again, with regard to the regulation of water, an engagement was entered into by the Government that the zamindar can utilize water for the cultivation of various crops more than once on the wet *ayacut*. I do not know whether the zamindar under the present Bill can reconstruct the anicut which has for the last fifty years been allowed to go to ruins. A portion of the anicut site is now in the possession of the Eastern Development Company. So I do not know whether, after he obtains possession of it, the zamindar could reconstruct the anicut. It is his admitted right and he had a free hand for a long time to carry on wet cultivation, to make necessary improvements and to extend the cultivation within his rights. So, I think it will be an infringement of the rights of proprietors if the Government interfere with those rights by this Bill.

"As regards the *Kudimaramat Act*, it has become obsolete. Now provision for land-owners and farmers contributing labour is made and it is said that, when they fail to do so, four times the value of the labour and materials can be charged and levied from them. Such provisions should be omitted. So far as labour is concerned, the land-owners are bound to contribute it or pay its value. But why should they pay four times the value of the labour if they fail to do so? It would cause an unfair and unnecessary hardship and oppression especially to the poor classes of the ryots."

Mr. S. SOMASUNDARAM PILLAI:—"Mr. President, I am in a fix as to whether to support or oppose the Bill; for I know the difficulties of the landlords as well as the difficulties of the Government. One thing I know that the Government exists for the people and not the people for the Government. Whatever Government does should be for the benefit of the ryots and landlords. So, I think that this Bill is apparently intended for the benefit of the

people. But there are some circumstances which make me believe that as a whole it will not do anything to increase the happiness of the people. Government can assume control over everything in the world. In this case, they seem to assume control over the natural elements. Sometimes the natural elements revolt against the Government. If people revolt against the Government, they are put down ; but when the natural elements revolt they cannot be so put down by the Government. As it has recently been the case in Bengal and Tanjore, the Government has not undertaken to recompense the landlords for the losses caused by the thunderstorms and floods. I think that, if there is a provision to that effect in the Bill, then there will be no harm.

" But coming to the point, this Bill is based upon the Urlam case, decided by the Privy Council. It was stated at the time of the permanent settlement that *peshkash* would never be increased for all time. But the Government interprets it in this way : that it will never be increased so long as you do not use the water for any purposes other than those that existed at the time of the settlement, such as bringing new lands under cultivation, raising a second-crop or carrying on mote cultivation. These arguments were advanced by the Counsel for the Secretary of State before the Privy Council ; but their Lordships of the Privy Council thought otherwise and interpreted that '*peshkash* will never be increased' meant that it should not be increased under any circumstances whether a second-crop was raised or whether new lands were brought under cultivation.

" One thing I may say here. After hearing the able arguments of the hon. the mover, it appears his case is a weak one. Generally clients engage able lawyers to argue weak cases, and they take a lot of time in arguing them before their Lordships in the High Court. Though, after hearing the hon. the Law Member, I was about to support the Bill very strongly, considering the other arguments, I am in a fix, as I said at first, whether to support or oppose the Bill. In the Perani dam case the Government was justified because they had spent a lot of money in the Periyar project and they had every right to regulate and distribute the overflow of water which was likely to be wasted. In such cases the Government can take the right, but not in the case of the zamindaris. To enhance the tax by levying a water cess, as it is proposed in the Bill, cannot be justified in any way. Of course, I know that Government is fully aware of its duties towards the people and that it will never do anything which will go against the interests of the people. The Bill, so far as I understand it, is to some extent beneficial to the landlords. One thing I may say, the landlords never care to improve their water courses or remove the silt in the channels.

" As regards riparian interests, by ' riparian interests ' it is generally understood that a man who owns lands on the banks of a river is entitled to the bed of the river and the water flowing over it belongs to him. But the Government claims that the water belongs to them. If so, that principle may be applied to the river Cauvery which takes its source in the British territory and then enters the Mysore territory. The Mysore Government claim that the water flowing through their territory belongs to them and the big dam at Kanniambadi has been built by them to establish this right. There our Government yielded. As the Bill specially applies to the proprietary landlords, I think that in this sense that principle

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should also be applied to the zamindars or any other landlords if the water flows through a river on which their lands are situated. That right must be given to them. Such a modification should be made in the Bill and all misapprehensions should be removed. But I think there are difficulties in removing the misapprehensions, and Government are very anxious to get money. Of course we should help Government to get money. But we must devise some other means which will not cause difficulties to the people whose protection is in the hands of the Government. With these words, I leave the House to infer whether I support the Bill or oppose it" (laughter).

Mr. T. C. SRINIVASA AYYANGAR:—"Sir, we should not be carried away by the alarms expressed by one section of the people or another. As I understand it, the motive of the Bill is to enlarge the possibilities of irrigation and to bring more lands under cultivation. It is essential that in any endeavour to improve the irrigation sources on a large scale power will necessarily have to be taken, so that any private irrigation sources, which stand in the way or which will necessarily be affected by the bigger scheme, will have also to be taken into account, or taken control of, by the Government so that they may be included in the proposed irrigation project; and if lands depending upon them are affected, to that extent either compensation ought to be paid or the necessary quantity of water let to the lands which depended on those private sources. All this can only be arranged for under the provisions in the present Bill. As for the necessity for such irrigation projects, there can be no two opinions. Taking the instance of the Madura district, more than two taluks in that district were purely under dry cultivation and a large extent of land was waste. After the advent of the Periyar water, the desert regions have been cultivated and dry cultivation has given place to wet cultivation, and the peasantry is very much happier and more prosperous. I may also add that crimes which were very rife in that part of the district have now disappeared, and most of those people who would otherwise have come under the Criminal Tribes Act, are now very peaceful citizens. Now, in the Tirumangalam taluk where the Kallar problem is a very pressing one for the Government, the only solution will be to bring water into that arid tract. How are we to bring water to that arid tract unless a costly scheme of irrigation is introduced? If that is to be introduced and if the Bill is not allowed to go into the Statute Book, any proposed scheme, however efficient from an engineering point of view and however capable of being brought into existence with the help of Government funds, will be thwarted by jari or inam and zamin villages interspersed among Government villages. Therefore, Sir, it is absolutely essential that a law should be enacted enabling Government to construct engineering works by means of which water can be brought to the land where it is very much needed. Unless the agricultural prosperity of the country is improved, there is no chance of improving the economic condition of the people.

"Now, let us take the other side of the matter. There is a keen controversy about the paramount right of the sovereign power. Whatever may be the technical aspect of it, however divergent may be the interpretations placed on the Urlam decision or the Perani Dam decision, it is an undoubted fact that it is the State that has projected big engineering schemes and has more or less accomplished them. Even taking the case of some of the zamindaris, which were previously semi-sovereign powers or complete sovereign powers,

we find that the big irrigation projects have all been done by the previous rulers. Take, for example, the zamindaris of the Ramnad district. There, all schemes of irrigation, like Koothangal and Raghunatha Kaveri, were accomplished by the former rulers, the ancestors of my hon. friend, the Raja of Ramnad, and I am not aware that since the permanent settlement similar irrigation schemes have been carried out which can take rank with the ancient ones. It may or may not be that they are neglectful of the condition of the ryots. There may be good reasons for their inability. Some estates might have been subject to chronic litigation. But the fact is there, and therefore powers must be taken for this purpose by Government. It is one thing to take power and quite a different thing to carry out a scheme in a way which may be detrimental to vested interests. But all this is a matter of detail and the Select Committee in which all the interests will be represented can make changes and provide for rules by which the vested interests of the proprietors can be adequately safeguarded and yet the beneficial projects of irrigation may be executed. For example, the exclusion of the civil courts' jurisdiction and the finality given to certain executive orders as to whether a land is mamool wet or dry are matters of detail and can be left to be discussed and decided in the Select Committee. Of all legislative measures recently introduced, I think this Irrigation Bill will be the Poor Man's Bill which will safeguard the interests and advance the prosperity of the bulk of the population. Every one of us should see that a scheme which tends to improve the condition of the people is given every support; if there are any difficulties in the way, we should try to remove them, and if there are interests which may be affected as a consequence, we must devise means by which they can be safeguarded. With these words, I support the principle of the Bill."

The hon. the PRESIDENT :—" Before we proceed further, I should like to draw your attention to the fact that our agenda is a very heavy one and that in the University Bill, coming later, there are a large number of amendments. I think, last time, we agreed that non-official Members should have two clear days for their work. Therefore, it will be to their interest to see that the Government finish their work in the first five days; otherwise, the contingency is that a portion of the time allotted to them may have to be cut short. This is entirely a matter for the House to decide. But I would strongly advise hon. Members not to repeat any arguments, either of their own or of other Members."

Mr. C. V. VENKATARAMANA AYYANGAR :—" Sir, I have carefully gone through the Bill more than once and also studied the literature on the subject. I have come to the conclusion that under the present circumstances the better thing would be not to reject this Bill but to introduce it and allow it to go to the Select Committee. I do not mean that there are no objectionable provisions in the Bill, but if you carefully take into consideration all the points, both *pro* and *con*, you will agree that to have some Bill will be better than having no Bill at all. It is admitted on all hands that even as regards the zamindaris the law is not quite clear in spite of lakhs of money having been spent in litigation. Both parties, the hon. the Law Member representing the Government as well as the zamindars, say that particular decisions support particular cases. There is considerable difference of opinion as to whether these rulings are in favour of the zamindars or against them. But we have also a large number of small landholders to consider. It may be

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that districts like Tanjore may not require a Bill like the present one, and very big landholders there, even though ryotwari, may not be benefited by this Bill. But districts like Coimbatore, which contain a very large number of small landholders, may be benefited by a Bill like this. Zamindars who are rich may carry litigation even to the Privy Council, but poor ryots are unable to go into courts and know exactly what their position is. I have dealt with some of these cases, and my experience is that in many cases, although the ryots are right and the officers are wrong, they are not able to know exactly their position on account of litigation expenses. It is therefore desirable that we should have a law enacted so that all people may exactly know the position of the Government as well as of the zamindars and the ryots. The best thing, therefore, will be to allow the Bill to go to the Select Committee and I am sure the members of the Select Committee will do all they can to improve matters favourably to the zamindars and the ryots.

"I shall now deal with some of the provisions of the Bill which seem to be very beneficial to the small landholders. One important thing is kudimaramat. The people of Tanjore do not exactly know the position in which kudimaramat stands. In Coimbatore taluk most of the *nanja* lands are under kudimaramat channels and tanks and we know exactly what the term denotes. Government closes a channel for 30 days or 40 days or for three months, but nobody takes any care to repair the channel and as a result the channel becomes silted up and dammed. Of course, many enterprising ryots spend money in repairs, but there is absolutely no way of getting contributions from other landholders. I have known cases where people combined together and spent large sums of money on repairs to channels because it was in their interest to do so and take water through them. But other people refuse to co-operate and contribute, with the result that even the few enterprising people do not care to have the channels repaired. I do not say that every provision in the Bill is good. We must have some provision in the Bill by which kudimaramat should be made more efficient. The village panchayat or the Government officer or any leading ryot might be entrusted with this work.

"The other point is that Coimbatore has got the largest forest area but the poorest wet cultivation. I think Coimbatore can very rightly complain that all the water it gets goes from the heavens to benefit other districts. Therefore, something must be done to increase the irrigation work in that district. Mahazar after mahazar have been sent to the Government offering to pay enhanced rates if particular plots of land were converted into nanja. Government always take care to improve their position whenever there is an opportunity, but we should not give them the opportunity. There is a provision for the revision of rates once in ten years and this should be removed. Instead of annual payments even lump sums of money can be paid if large reservoirs are erected in various places. In Udumalpet and other places they have made offers of Rs 400 or 500 per acre if proper irrigation is provided for the cultivation of wet lands. Then again as for new small channels. I know small pattadars are very greatly inconvenienced now. Under the Land Acquisition Act, even small channels cannot be cut across private lands. In Chapter IV some principles are enunciated and they will, if enacted into law, be productive of much good.

"Then I shall deal with some objectionable provisions in this Bill. As to the anicuts erected on Government land, I am afraid the definition of the

words 'irrigation work' will include such anicuts because they have got certain control over them. There are a large number of anicuts on which the ryots have invested large sums of money although they are situated on Government porambokes which according to the Board's Standing Orders are subject to the control of Government. The definition must not be taken to mean that all these should be brought under the term 'irrigation work'.

"Another thing so far as the definition is concerned is this: Who is a registered landholder? A registered landholder means a mortgagee or lessee. The definition is objectionable. Clauses 6 to 8 are certainly objectionable. The hon. the Law Member has said that he has simply adopted section 2 of the Easements Act. I beg to differ from him. All we can say is we have no objection to section 2 of the Easements Act being introduced but clause 6 of the present Bill must be taken out. There is a good deal of difference between section 2 of the Easements Act and clause 6 of this Bill.

"I have a large extent of land where there is a private tank from which I add to the irrigation supplied by the Government. I am afraid this will come under the definition 'other natural collections' and if the Government say that they have a control over it I shall be undone. Likewise clauses 6, 7 and 8 are very objectionable. Suppose I build a big anicut to conserve water to convert two acres of my dry lands into wet lands. The Government which take power under these clauses to issue a notification can restrain me from using the water I have stored and that is very unkind.

"Clause 8 says that 'no right to receive a supply of water' shall be deemed to have been acquired against the Government under any custom or contract. I do not know what the hon. the Law Member will say if it is interpreted as saying that no ryot or no zamindar can have at any time any claim against the Government under any custom or contract. That certainly takes away all our rights. Evidently Government does not mean what appears to a layman on the face of it. That is also a provision that should be taken away. Similarly clause 25 is another dangerous clause. It says that whereas the applicant for the construction of a water-course can only withdraw his application before the work of construction is commenced, the irrigation officer may at any time withdraw from any work. Through much of the applicant's money has been sent, this is also objectionable.

"Clause 30 too is objectionable. It refers to what is now known as cultivation under ticket system. Supposing I have five cents of land which I want to cultivate under the ticket system with the permission of the irrigation officer, the clause provides for an elaborate inquiry to be made. It requires that notice should be served on the owners or occupiers of the land supplied with water from the water-course from which I wish to get water requiring them to show cause on a day not less than 15 days from the service of such notice why the said supply should not be given. I know of a case in which under the ticket system an officer gave a certain gentleman water for two years; but this was refused in the 3rd year six months after the application. So, after having cultivated the land for six months the poor man was refused the enjoyment of the cultivated crop. It shows, I submit with due deference to the hon. the Revenue Member, the despatch of work by revenue officers. For these reasons clause 30 seems to be very very difficult to deal with and it requires to be amended.

"My next objection is to the power of the Government to increase the water-rate in cases where the Government have slightly improved the supply

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of water. I was not surprised that a large number of members are inclined to vote against this Bill on account of that. It may be, as has been suggested by some of the hon. Members, that an anicut which is repaired or improved upon or that some spring which is dug may come under the very vague words 'enlarged or otherwise improved'. I do not know what the meaning of the word 'enlarged' is in the dictionary of the Government.

"Then clause 34 reads as follows :

Notwithstanding anything contained in this proviso the Local Government, subject to such rules as may be framed in this behalf, may levy enhanced assessment upon Government land classified and registered as wet in the revenue accounts and a charge for water upon mamul wet land, whenever the supply of water is enlarged or otherwise improved by the Government. The Government may prescribe from time to time the rules under which and the rates at which cess shall be levied under this section and different rates for different irrigation or drainage works or different areas may be prescribed.

"Under this clause no rate is fixed and no time is fixed. This seems to be objectionable and requires some change.

"I would suggest that wherever the words 'District Collector' is used in this Bill the words 'District Judge' may be substituted. That will put an end to all the trouble. I do not know why the District Collectors and not District Judges should be given additional powers over the Collectors. If my suggestion is adopted, most of the objections of various members will disappear.

"The other defects in the Bill, excepting of course the question of penal service, are matters of detail. The provision that any man, any male adult—thanks, ladies are exempted—who refused to work on the orders of the village headman, not even a higher officer, should get thirty days' imprisonment seems to be very bad and certainly that clause must be completely removed. So far as compulsory labour is concerned, it is necessary that some satisfactory changes should be made. As Mr. Shanmukham Pillai said, some less objectionable provision should be made so that emergencies may be provided for. These are a few points here and there which I have gathered together and which require improvement. With all this I think the Bill as a whole, so far as its provisions are concerned, is good and it will be very dangerous to reject it. The position now, so far as the ryotwari landholders are concerned is very obscure, and there is no law on this point. Executive orders are passed fixing the water-cess twenty times or fifty times the usual rate and these orders themselves are always changing. Therefore it is necessary that we should have a Bill of this sort.

"There is only one point which I request the hon. the Law Member to make clearer. Supposing a stream springs in a zamindari land and ends in the same zamindari, have the Government a right to levy water-tax on that? This also applies to landholders. Supposing a channel runs along a number of private lands with no Government land intervening, have the Government right to levy water-cess? There are rulings in the *Madras Law Times* which say that the Government have no power. In spite of that the revenue authorities insist upon levying the tax. So, it is better that rulings are respected and some provision is made in this Bill on that point. If this is done, we shall be doing justice to the various ryots and zamindars.

"With these words, I would once more appeal to the House not to reject this Bill but to refer it to a reasonable Select Committee which can propose changes and alterations satisfactory to all. If further changes are required, we can do so by bringing amendments. So, to reject the Bill at the very first reading would be dangerous and, I think, suicidal."

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Mr. B. MUNISWAMI NAYUDU :—" Sir, I rise to oppose the Bill. It is stated that the Bill is really in the interests of the ryots and therefore it ought to be supported. Interested as I am in the ryots in zamindari estates, I can definitely say that the Bill is in no way conducive to their interests. I shall deal with the main principles of the Bill and show how every one of these principles is subversive of the interests of the ryots as also of the zamindars.

" In Chapter II, clause 7 provides that the Local Government may, by a notification, declare any water-course or tank in a zamindari area to come under Government control and that when such a notification is made, all rights against the Government other than those which have been acquired by that time will cease. Supposing, Sir, that a tank in a zamindari area is capable of irrigating thousand acres and on the date of the notification it actually irrigated only 500 acres, the other 500 acres remaining waste and unoccupied, is not the effect of clause 7 to deprive the zamindar of the right to supply water to the other 500 acres, and also to make it obligatory upon the tenants to pay water-cess to the Government? The zamindars are deprived of their right and the tenants have to pay to the Government, if not to the zamindars. Further, clause 7 gives very extraordinary powers to the Government, and I am opposed to entrusting the executive with large powers.

" In Chapter III, clause 18 is the most important. It is very reactionary and arbitrary. It attempts to penalise persons who are innocent because some dishonest man has committed a mischief in respect of the tanks or irrigation channels. It is the duty of the Government to find out the culprit and bring him to book. The Government have got large police forces and it i not for them to say that because they cannot find out the culprit, the honest tenants must be made to pay for the expenses of the repair. How can it then be contended that this clause is in the interest of the tenants? The other clauses of Chapter III are merely declaratory and no Bill is necessary for the purpose.

" Chapter IV deals with water-courses. The provisions appear good on paper and in theory, but I am afraid the whole thing is impracticable. A tenant who wants a small water-course to be constructed has to apply to the irrigation officer, but so many details are laid down that it is impossible for the tenant ultimately to succeed with his application. He has to build tunnels, culverts, etc., and, if necessary, probably to cement the channel and bunds. All this would mean that the benefit intended by this chapter will never be available to the poor ryot. After all, Sir, the object of this chapter seems to be to make it legal for the Government to acquire land for water-courses under the Land Acquisition Act. As the Land Acquisition Act now stands, the acquisition of lands for such water-courses will be considered to be only for private purposes and thus not authorized under the Act. If the Government want to take power to declare such acquisitions also to come under the Land Acquisition Act, the Government have only to indicate in the chapter relating to irrigation panchayats that when a panchayat resolves that a water-course is to be acquired, that will be sufficient to constitute a public purpose within the meaning of the Land Acquisition Act. The chapter is so hedged in with limitations and formalities that it seems to be absolutely impracticable to be of any use to the ryots. And moreover, the provisions are dangerously wide and give the irrigation officer too many powers which he can use or abuse.

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"Chapter V deals with water-cess. We have been contending that Government ought not to be entitled to levy any cess or tax except on well-defined principles which have the approval of the legislature. We passed a resolution of that sort with regard to land revenue assessments and I really fail to see how this Council can allow the introduction of a Bill which wants to give the Government absolute powers to levy what cess they want. There is nothing in the Bill as to the principles on which the water-cess is to be levied; and once we give Government power under this Bill, it will be impossible afterwards for this legislature or for any subsequent legislature to interfere with the cess that may be levied by the Government, because they will be acting under a Statute. I think that the provisions of Chapter V are dangerous and ought not to be allowed to stand at all.

"Then Chapter VI refers to several irrigation works. I am afraid, Sir, that this chapter will make it impossible for any irrigation project to be undertaken, or to be successfully got through. The chapter lays down that before an irrigation work is undertaken, the Local Government shall fix a rate of water-cess which shall be levied upon all lands to be served by the irrigation source, and there is the fiction of an implied promise introduced into the Bill. I am afraid that if the rate is levied high, there will be resolutions in this Council to abandon the project immediately. It may be a very good project which ought not to be abandoned; or again it may be that the Government may fix arbitrarily high rates and this Council will have no power to impeach such rates once we give them legislative sanction to levy what cess they like. I am afraid that if a guaranteed rate of interest is to be provided for before any irrigation scheme can be taken up, no productive irrigation scheme is possible hereafter. And what in the beginning may be after all not a paying irrigation source may ultimately, after the lapse of some years, become very much paying because of the extent of cultivation or for other reasons. Therefore, Sir, I think that this chapter will not serve the purpose in view.

"Then, Sir, Chapter VII is wholly objectionable. It is of a very highly confiscatory nature. Judicial decisions have set the matter at rest but the Bill wants that such judicial decisions should also be ignored and treated as non-existent. Further, the zamindari tenants are interested in seeing that the full amount of water is available for their irrigation through the zamindars. If the Government should restrict the right of the zamindar to use more water than what is actually being appropriated at any particular time, then the tenants will lose the benefit of the water and they will have to pay an additional cess to the Government subsequently. The tenants are certainly not anxious to deprive the landlords of their rightful due. The question of riparian rights seems in this connexion to be not very relevant. Riparian right is a right possessed by tenants actually cultivating the lands lying on either side of the river and the right exists whether the channel passes through Government lands or through zamindari lands. The zamindars or the Government, as the case may be, are entitled to utilize the surplus water in any way they like subject to the rights of riparian ryots. If the State is entitled to all the water in streams within the boundaries of Government land, the zamindars also are entitled to all the water in streams lying within zamindari areas. I see, therefore, no principle or law justifying the confiscation of the rights of the zamindar on the specious argument of riparian right, because the zamindar is not the riparian owner but his tenant.

"Then Chapter IX is most objectionable. Absolutely no reason has been shown for an extraordinary provision of that sort. It is stated that the irrigation officer, or the village headman, may issue orders to all able-bodied men to labour and not to provide labour, and that if they fail to do so, they will be prosecuted before a magistrate and convicted. In the first instance, it is unsafe to entrust these low-paid officers with such wide powers of harassing people; and secondly it is unfair to expect everybody, whether he belongs to the labouring class or not, to come and work personally. I can understand if the direction is that they should provide labour and not necessarily to labour themselves. After all the hon. the Law Member has given no instances in which for want of such emergency powers the Government felt any difficulty, and there is absolutely no reason therefore to take such extraordinary powers under the guise of an Irrigation Bill.

"Chapter X, no doubt, appears good on paper. Years have passed and there has been a complete revolution in the constitution of villages. No doubt it was the practice for villagers to do *kudimaramat* work, but there was the social sanction behind it which made men do the work willingly. The village life has been broken and the social sanction has ceased to exist. It will be impossible for a headman or anybody else to enforce *kudimaramat* hereafter satisfactorily. The only solution therefore is to entrust such work of *kudimaramat* to village irrigation panchayats or other bodies and make them look to these things either by availing of the labour when given, or by levying a cess for such purpose which they can collect from the owners of lands and utilize.

"Chapter XI deals with irrigation panchayats and probably that is the only chapter that has any claim for acceptance. Even there, Sir, the provision is very halting. The Government evidently have no faith in panchayats and I am sure that the farce of establishing panchayats and then saying that they do not work well will be freely resorted to. I think that the Government should take a bold step of constituting panchayats compulsorily in every village which has an irrigation source, with irrigation boards to supervise and co-ordinate their work for a taluk or for any other area. No town has accepted a municipality without murmur and no union has been voluntarily taken up. Only the other day we forced Chirala to take up a municipality. So, why should not the villages be forced to work under panchayats? If such panchayats are constituted, and if only sympathetic supervision and guidance is supplied, then I am sure the villagers will take to the panchayat system in no distant time and the panchayats will be really successful.

"I should like very much that this Bill should be withdrawn and another Bill called 'The Irrigation Panchayat Bill' be introduced to which can be assigned all the duties of distribution of water, of acquiring water-courses for irrigation purposes, of enforcing labour for repair of irrigation works and other matters, and not giving such work to irrigation officers who are likely to be a source of constant irritation to the villagers. Already the name of an irrigation officer is a terror to the people in the Kistna and Godavari districts, and I am against any proposal to clothe the bureaucracy with larger powers. The Bill is not on democratic lines, but is reactionary. It is confiscatory and uncalled for. It is suggested that it may go to a Select Committee and that all suitable amendments may be made there. The objections that I raise go to the root of the Bill itself and unless the hon. Member is willing to give up all its principles, there is no use of the Bill

going to a Select Committee. I consider it is not the function of the Select Committee to frame a Bill for the benefit of the hon. the Law Member. It can only deal with the details to carry out the principles, and when we cannot agree upon the principle, it is for the hon. Member to withdraw this Bill and introduce another in consonance with the principles which are acceptable to this House.

" With these few words, Sir, I oppose the introduction of the Bill."

Mr. R. SRINIVASA AYYANGAR :—" Mr. President, I do not see my way to oppose the introduction of this Bill at this stage, though, honestly speaking, I must confess my utter inability to approve of some of the provisions of the Bill. I must also state, at the same time, that I agree with some of the main provisions of the Bill along with the hon. the Law Member. It is too late in the day to question, much less to discuss the permanent right of the State to control, regulate and distribute natural waters. That right must be conceded. If we carefully consider some of the observations made by Lord Parker of Waddington in the Urlam case, we shall find that mention is made of certain existing rights acquired by grant. If I understand the judgment aright, it is a case where some years after the permanent settlement more lands were brought under wet cultivation than were shown to be wet at the time of the original settlement, and in respect of this the Government sought to levy a cess which was resisted by the zamindar. The Government won the day here and ultimately the question went before the Privy Council. Their Lordships dealt in extenso with the prevailing condition of the province and seemed generally to support the claim advanced in this House by some of the zamindars. At the same time it seems to me that so far as the Bill is concerned, it aims at the development of irrigation facilities and the augmentation of the material prosperity of the province. It does not, so far as I am able to perceive, tend to plunder, to use the language of the Raja of Ramnad, or confiscate, to use the felicitous expression of my hon. friend Mr. Muniswami Nayudu, certain rights. If we consider the provisions of clause 8 and also clause 46—the former deals with the question of appropriation, and the latter deals with immemorial right—it seems to me that sufficient care has been taken not to inflict hardship on the zamindars. On the other hand, I submit that even from this point of view the zamindars must welcome this Bill. Clause 46 says that the extent of mamul wet land under an irrigation work shall be the largest area irrigated under such work, free of a separate cess for water, in any one year between the date of permanent settlement or inam settlement as the case may be and in the case of those irrigation works as fall under sub-clause 6 (*d*) of clause 4, the date of issue of notification under clause 7. Clause 7 empowers the Local Government to issue notification declaring its intention to take up these works under their control. Now, what I submit is this. Taking clause 2 of the Bill hon. Members will see that the Bill extends to the whole of the Presidency of Madras and will come into force at once. What I venture to submit for the consideration of the House is this. If we were to adopt that course I would suggest the modification of this clause by an amendment and insist upon the Government not to bring the operation of this Act in the immediate future. That will solve the difficulty and meet the objections raised. This will form an incentive to the zamindars to bring more lands under direct cultivation than at present. In clause 46 Government takes the power to limit the mamul wet land to the maximum area that has been

brought under wet cultivation within the last 125 years. Though the settlement was made in 1802, for some reason or other the zamindars have found it impossible to bring a larger extent of land under cultivation. Probably this state of things will continue. Therefore, the suggestion I would make for the consideration of the zamindar is that if we postpone the operation of the Act to three years hence, the interval may be taken advantage of by the zamindars to bring a larger extent of land under cultivation. Thereby you may try to evade the provision in clause 46 ; for by the time the notification is issued you will have enabled yourselves to bring a larger extent of land under cultivation. That is one way of overcoming the difficulties of the zamindars. I began by stating that I was not enamoured of some of the provisions of the Bill. Very many hard things have been said about clauses 6, 7 and 8. It is not possible in the very nature of things to coolly submit oneself to the infringement of rights, which one fancies he has. In view of the possibility of my suggestion acting as an incentive to the zamindars, they should be inclined to view the Bill in a favourable light. Clause 18 deals with what we lawyers are familiar with, I mean cases of vicarious liability. Why on earth for the callousness on the part of the irrigation officer or anybody who is responsible for finding out the culprit and the delinquent, should those persons who may be benefited by the damage be asked to pay for the entire damage? In all these cases the State must bear the cost. They have no business to shirk the responsibility. Then, turning to clause 29, I would entreat the attention of the hon. the Law Member to these criticisms of mine. Clause 29 enables the irrigation officer who may construct, extend, alter or improve any water course not on the application of any tenant or occupier of land but on his own initiative to apportion the cost of such work among the owners or occupiers of lands. The officer may take it into his head to extend the water course without any request from anybody and I am asked to pay its cost. That is a position which I cannot understand and the Government will do well to consider this from the ryots' point of view. Clause 34 enables the Government to levy enhanced assessment on Government ryotwari lands when the supply of water is enhanced or otherwise improved by Government. It will be open to these officers who have an eye on expansion of revenue to say that a particular work must be viewed in the light of the water-supply being enlarged or improved. This is a dangerous provision for which there is no warrant.

" Then coming to chapter IX, I should like to make a remark. Apparently the hon. the Law Member must have in his mind able-bodied persons of the working or labouring classes when he says :

> all or any of the *able-bodied* male persons who reside or hold land in the vicinity of the locality where such repair, clearance or work has to be executed.

" He has, however, not made this point quite clear. Under the Bill it will be most unfortunate to be in a village when the services of the people are demanded for doing certain work. If I happen to be in a village, I can be compelled according to the Act to do the work. I can talk ; I can think ; I can act ; but it is impossible for me to wield the *munwetti* or to carry on the excavation work or to carry head loads. If to my misfortune the officer asks me to do such work and if I refuse I shall be hauled up before a magistrate. I may plead lawful excuse and escape. However it is unlawful to invest the executive officer with such powers and be worrying oneself with the problematical success or failure of the case by engaging a pleader

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or defending in person. That is a mischievous provision which I think ought to go away unless it is restricted to able-bodied persons of the labouring classes. Coming to customary labour it is stated that the local Government will levy a cess in every conceivable case. How many cesses ?

" People are already groaning under taxation and to arm the State with the power of leaving cess for the purpose of exacting customary labour, is a thing unknown and unthinkable. Doubtless chapter 11 which deals with irrigation panchayats is a welcome thing in view of the fact that at the present moment there are in this country informal panchayats which have been doing a lot of work but which have not been placed on a legislative basis. I am gratified that the Government have thought it necessary to define the scope of these bodies, to define their functions and to clothe them with statutory powers.

" Then there are one or two clauses to which I would like to take strong exception. Clause 76 enables the panchayats to ' levy a penalty not exceeding Rs. 20 per acre for such land on each occasion of such irrigation '. A person takes water on three different occasions in the course of a day. The panchayat levies a penalty of Rs. 20 one morning on half an acre for the water taken. In the afternoon of the same day when water is taken it may again levy another Rs. 20 on another portion and in the night another Rs. 20 for the water then taken. Therefore within a period of twenty-four hours there may be no less than three occasions on which the penalty may be imposed with the result that the ryot will have to pay for one acre Rs. 60 in one day and after all this man might have utilized water for the purpose of preventing loss of crop of the value of Rs. 20. Again if we turn to clause 96, we find that it is another mischievous provision. That says ' never mind all this ; the local Government may with respect to this taking of water levy enhanced water-cess not exceeding twenty times the water-cess ordinarily payable for a first irrigated crop in respect of such water.' Further the man is also liable for a prosecution. Therefore, it seems to me that the Bill contains some provisions of a highly objectionable nature. But it will be for the Select Committee to recast it, to accurately weigh all the *pros* and *cons* and see that the Bill emerges out of the Committee in a much more satisfactory and acceptable manner. That is the place where the fight has to be put up. That will be the proper attitude for this House to take instead of rejecting the Bill *in limine*. With these words I support the motion now before the House."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" Sir, the subject of an Irrigation Law in this Presidency, as has been pointed out by the hon. Member in his Statement of Objects and Reasons, has been under consideration for a very long time and I consider that, if any misapprehensions as regards the provisions of this Bill have prevailed in some of the constituencies, they are entirely due to the delay in the introduction of the measure and to the publication of the various provisions of the previous Bills which are more or less of a confiscatory nature. The Bill of 1908 was published for general criticism. It evoked tremendous opposition. The Government of the day were good enough to refer it to various persons who knew all about the subject. Their opinions were published by the Government along with a draft which are now available to all of us. Then there were other drafts in 1917. In consequence of further criticism these were republished for general criticism. These Bills which contained provisions of a confiscatory nature created considerable misapprehension in the minds of the people. And if to-day the present Bill also is viewed by the people with the same distrust

by the persons interested in the administration of irrigation tracts, there is no wonder. After the publication of this Bill, several persons—I come from a much irrigated tract, the Kistna and the Godavari deltas—expressed their views. There are grievances which have been ventilated in this House for at least ten or twelve years with considerable force and this Bill unfortunately contains several provisions relating to the deltaic administration which then formed the subject of complaint. Therefore, if this Bill is viewed with the same distrust and suspicion and if it is regarded as a Bill which places considerable power in the hands of administrative officers, I submit that those suspicions and fears are very well founded. I may say that, after the publication of this Bill, several persons, representative men, in my constituency came to me and told me that the provisions of this Bill are such that they have grave fears about them and that I should not give consent to them. As the hon. Member may have noticed, a public meeting also was held at Masulipatam condemning the provisions of the Bill. Therefore, so far as I am concerned, whatever may be my personal views as regards certain provisions of the Bill, I am bound to say that the constituency which I represent does not look with favour generally the main provisions of this Bill. Having said that, I must now proceed to refer to the various points which have arisen from an examination of the Bill.

"I should like to ask the hon. Member 'What are the principles of the Bill'?. He enunciated some. He spoke about the principle of State control of all water for the benefit of the majority of the people. I have no objection and I certainly endorse every word of what has been said by previous speakers as regards the policy of expansion of irrigation works. That is certainly not the only point which is now under discussion. I myself have urged several times a forward policy with regard to irrigation works and if to-day I am in the unfortunate position of expressing my dissent on certain points in the Bill, it is not because I am not in favour of a rapid progress of irrigation for the benefit of the people. Now, as regards the principles of the Bill, various objections have been urged. Zamindars are alarmed that their rights have been invaded. They consider that the provisions of the Bill, especially clauses 7 and 8, are provisions that seriously interfere with their rights. My hon. friend has stated that the position taken up in the various clauses of this Bill is more or less in accordance with the decisions of the Privy Council and the Madras High Court, and if there is any deviation from them the change is in favour of zamindars. It may be that he is right, or it may be that he is not right. But so far as that matter is concerned, that is no doubt a question of principle. What I am concerned with is the way in which this Bill will affect a large majority of the ryotwari holders and a large majority of zamindari ryots who after all are the persons who are interested in this measure. On that matter I have absolutely no hesitation in saying that that portion of the Bill which confers powers for control of irrigation is entirely unacceptable to me. I talk with some intimate knowledge of certain classes of irrigation officers who are a terror in the villages. I mean to say that they are a terror in the sense that they are disagreeable to the people, and their power is enormous; and the provisions in this Bill under Chapter III do not limit that power but considerably enhance it. They may

change the irrigation work from which water is supplied, close, remove, construct, repair, alter or add to any irrigation or drainage work, or stop or reduce a supply of water from any irrigation work

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" and also they may
stop the supply of water to any water-course.'

whenever they consider it necessary to do so for any of the purposes mentioned in sub-clause (3) so that they have enormous powers for cutting off water-supply. Already, even without this Bill, they do what they like ; and in fact, during the irrigation season, the one god which the people like to propitiate in the deltaic tracts is the irrigation officer. That being so, I submit that if the principle of this Bill is to extend the powers of the executive officers in the deltaic tracts, I must emphatically protest against it and therefore, without going into details, these clauses under Chapter III, which give these enormous powers of stopping water-supply, diverting sources of irrigation and so on, should be considerably modified. Whatever may be the provisions of the Burma or the Punjab Act or any other Act in any part of India, I submit that the administration of these deltaic tracts during the last twenty years and the placing of such enormous powers in the hands of these irrigation officers are against the interests of the people concerned. Therefore, if the first principle embodied in this Bill is to expand the powers of these officers, I submit I must emphatically dissent from the view taken in the Bill.

" There is the other principle of limiting the jurisdiction of civil courts in many matters. At the outset, I should like to ask the hon. Member whether any of these provisions which prevent a resort to the courts can be enacted in this Council. The hon. Member is aware of the view that the Privy Council took in that well-known case from Burma. They said there that the power of the subject to sue the Secretary of State in all matters in which he could have sued the East India Company before 1858 cannot be taken away by any Act of the local legislature. This limitation is contained in the Government of India Act in force before 1919 and also in the Government of India Act of the present day where the same provision has been re-enacted. There are thus a number of provisions in the Bill by which the courts are deprived of their jurisdiction and which give finality to the acts of administrative officers. I shall here refer to the memorandum issued by the hon. Member He says :

> The only clauses in Chapter XII that need special mention are clauses 83 and 84. Clause 83 ousts the jurisdiction of civil courts in matters where the orders of executive officers are declared to be final or specific provision is made barring suits. Under the first category fall the recovery of the cost of repairing damage from occupiers of land benefited by the mischief where the culprit cannot be ascertained or identified.

" The clause which gives power to recover the cost of such damages is clause 18, to which, I think, my friend Mr. Muniswami Nayudu has already made some reference. In cases where such damages are to be recovered from the owners of lands, it is the Collector who gives the original order and the District Collector is the final authority to whom an appeal can be made. Of course, the jurisdiction of the Civil Court is taken away in that case.

" Then we have clause 29 dealing with the apportionment of costs of constructing water-courses by Government among owners or occupiers of lands. Clause 49 deals with compensation for damages caused by entry. Clause 59 deals with payment for labour impressed and materials taken. Clause 62 deals with the penalty for any customary labour. Under clause 68 the special tribunal may enhance the water-cess. Now, in all these cases, the decision of the administrative officers becomes final and a resort to a court is not permitted.

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"Now I shall only refer to clause 96. Under this clause if any person who is alleged to have taken water from what may be regarded as unauthorized source, in contravention of the provisions in clause 12 or in violation of any rule made under clause 99 :

It shall be lawful for the Collector to impose, in addition to the cess, if any, leviable under this Act and subject to such rules as the local Government may prescribe in this behalf, enhanced water-cess not exceeding twenty times the water-cess ordinarily payable for a first irrigated crop in respect of such water.

"I may at once say that this provision is more or less re-enacting one of the present orders of the Board of Revenue embodied in the Standing Orders and issued under the Water-cess Act of 1865. Of course, I know it has been suggested that the Act of 1865 does not empower Government to frame such a rule. However, the hon. Member apparently wishes now to legalize this procedure, that is, the imposing of enhanced water-cess for what I may call unauthorized irrigation. Now, Sir, in regard to this matter complaints have been made that administrative officers have been too strict and that sometimes they have penalized the ryots in a most thoughtless manner, and I have in previous years interpellated the Government as regards the penal water-rate collected in certain taluks in Kistna district. In one taluk the amount collected was Rs. 50,000, and in another it was Rs. 60,000, and I submit that without any enquiry, or merely on the report of the Irrigation officer, the Divisional officer is empowered to impose these penalties. My hon. friend now wishes to legalize this procedure. It may be Rs. 100 per acre in addition to the water-cess, but how can my hon. friend expect that such a provision will be supported by the Members of this House ?

"I do not want to dilate on the various instances of administrative action which have been referred to in the various clauses. Therefore, I submit with great respect that if the hon. Member had taken care to insert a provision that, if necessary, the civil courts will retain their power of correcting administrative errors, certainly the majority of the ryots who are affected may have also given support to the irrigation law. But every one of the rules which formed the subject of contention and complaint during the last ten or fifteen years has been embodied in the present Bill, and I therefore submit that any idea that the ryots are anxious to have this Bill has no foundation.

"There is another objection to which I may perhaps refer. Provision is made in this Bill to impose what I may call a punitive tax upon persons who interfere with irrigation works and it is suggested that the Government should have this power of imposing the punitive tax upon those persons whose identity cannot be traced. It is really an extension of the provisions of the Police Act for revenue purposes and this formed the subject of complaint in deltaic tracts and now again my hon. friend wishes to incorporate that power in the provisions of this Bill and wishes us to give our concurrence to that provision.

"Then there are various other provisions such as the provision shutting out the jurisdiction of the civil courts. For instance, clause 70 says: 'No civil court shall take cognizance of any suit filed in respect of any matter dealt with in this chapter'. I do not very much object to this clause but there are other more objectionable clauses, especially the last clause, clauses 83 and 84, and various other clauses, to which I have already referred. Therefore, I submit with great respect to the hon. the Law Member who is

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responsible for the introduction of this measure that if he wishes the people of this province to give their concurrence to this measure it should be introduced with appropriate safeguards that errors of administrative officers should under suitable circumstances be subject to control and correction by civil courts. I regret to say that notwithstanding the fact that the Bill has been put forward, not by a member who has been in service for 30 or 35 years, but by a gentleman who occupied a responsible position, the position of a judge of the High Court, and who was a member of the bar and knows the people, I submit that he is mistaking the times. He has put forward a proposal to strengthen the hands of the executive and to deprive the people of the right which they now have of resorting to civil courts and, if necessary, taking the matters to the High Court also. Therefore, I would submit that if my hon. friend wishes to advance the interests of the people of this province by passing this legislation, it should be made acceptable and more in consonance with the existing rights of the people.

"I may perhaps refer to the question of shutting out water, or of reducing, or of diminishing the supply of water. It is suggested that in cases of such diminution the person concerned has got a remedy by way of compensation. Now, who is to fix this compensation? The collector in the first instance, and the district collector afterwards; the collector in the first instance, and the district collector for the purpose of appeal. On this question I may say that it was also one of the features of the previous Bill, and formed the subject of a good deal of comment, and various responsible persons like Sir V. Bhashyam Ayyangar, Sir S. Mani Ayyar, Diwan Bahadur Rajaratnam Mudaliyar pleaded strongly that wherever possible the jurisdiction of the courts to hear these matters and to decide such questions ought to be preserved without any detriment to the efficiency of administration.

"There are a few other matters to which I would like to refer consistently within the time that is allotted to me. One of them is the question of the liability to water-cess. The chapter relating to this question more or less reproduces the Water-cess Act of 1865 as amended up to date. I contend that in view of the recommendations of the Joint parliamentary Committee there ought to have been alterations suitably consistent with what they have stated. Hon. Members will notice that under this Bill the power of levying water-cess is entirely vested in the hands of the executive Government. I would like to ask my hon. friend whether this is a measure of taxation or not? Is water-cess taxation? If it is a tax, the members of the Joint Parliamentary Committee has stated that as occasion offers opportunity should be taken to transfer this power of taxation from the executive Government to the Legislature. That was what was proposed to be done in the case of land revenue, and if it could be done in the case of land revenue I would like to ask my hon. friend why it should not be done in the case of irrigation cess also? The mere reproduction of previous provisions without any reference to the altered state of things, namely the existence of a Legislature which exercises the functions relating to taxation, I consider a serious error.

"Passing on to another portion of the Bill, namely, the question of determination or localization of mamul wet lands, I may inform my hon. friend that the jurisdiction of the civil courts has been taken away here also. I may also inform my hon. friend that for the last 15 or 20

years this question of localization of mamul wet lands forms the subject of considerable inquiry in the Godavari and Kistna districts as what is known as Kanchi Subba Rao's inquiry. My hon. friend may also be aware of the fact that immediately after the construction of the anicut there was a settlement made by which the zamindars were entitled to irrigate their lands free of irrigation cess. This settlement was made after enquiry by responsible officers, and the lands were no doubt unlocalized, but the areas were settled on certain principles which those officers then adopted. The Government in the year 1900 repudiated the whole of the settlement made in 1872 and they adopted other principles by which these areas were reduced considerably to the detriment of the persons concerned and this led to a good deal of litigation which ended in most of the cases being decided in favour of the landlords. Now what is the lesson that we have to learn from the experience we have had in connexion with the mamul wet lands? It is that we should keep intact the jurisdiction of the civil courts to decide all matters which should be adjudicated by letting in evidence in a court of law. Therefore I should think that the provision made in the Bill to leave this matter entirely to administrative action and to say that 'no civil court shall take cognizance of any suit filed in respect of any matter dealt with in this chapter', that the Collector and the District Collector are infallible, and that their action will commend itself to the people—this, I think is undoubtedly a position which in the light of my experience cannot be justified.

"I think I have said enough to indicate my views. There is no doubt that considerable trouble has been taken in framing this Bill, but it is quite likely that a measure must at any time be the subject of controversy, and I trust that the discussion which we have had to-day would clear the air should the Bill go to a Select Committee. But so far as I am concerned, I confine myself to the provisions of the Bill, as it is now presented and in view of the circumstances I have explained, I regret I cannot give my assent to it."

Rao Bahadur O. Tanikachala Chettiyar:—"Sir, I think the speech of my hon. friend the Leader of the Opposition has cleared the way for a good many members of this House and I am thankful to him for kindly saying that he cannot support the Bill as it is now presented to the House. I need only refer to a few points. Even the most enthusiastic supporters of the Bill who went to the length of characterising it as the Poor Man's Bill had to admit that it contains a good many defects which have to be remedied and that it must be considerably modified before it can be presented to the House for final acceptance. But the question is are we to allow the Bill to be amended in the Select Committee; is it capable of being mended, or shall we end it here? I say most emphatically that it should be ended. I need only refer to a few provisions of this Bill which seem to indicate that the pen with which it was drafted was dipped in blood. The idea of commandeering runs throughout the Bill. Commandeering is a measure which is resorted to in times of war as a measure of urgent military necessity. In this Bill there is the commandeering of men's labour for purposes of *kudimaramat*; commandering on occasions of emergency, commandeering of zamindars' properties which have been given away to them under a settlement made with them 120 years ago, so that this Bill seeks to unsettle what has been settled. No doubt, I am aware as a lawyer that strips of land on which the railways are laid in territories belonging to Native States are, on account of the exigencies of state and for strategic purposes considered to be British

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territories. But when lands have been given away to zamindars under certain sanads, those lands carry with them the right to the tanks, the reservoirs and the river-beds which are within their territory. But section 7 seems to say that they can be taken over by the Government. What else is it, Sir, except commandeering? I think commandeering is a practice which in times of peace ought not to be encouraged. The Government thought in 1914 that even in times of war when emergency legislative measures are considered to be justifiable, it was not a wise step to introduce such a Bill. Then, they seem to have conceived a legislative measure which on mature consideration they thought should not be introduced, apparently on the ground that Irrigation Bills were likely to be considered irritating measures. Sir, when Government thought that such a Bill was likely to cause irritation, then, what is it that has occurred since the war terminated, that they should come forward now and say, 'we can now irritate them'? The Bill is not conceived in the right spirit and it is not liked by the poor man or the ryot on whose behalf it purports to have been introduced. For, under section 77, powers are given to panchayats to control the water which a gracious Providence chooses to shower on certain lands. We in Madras are familiar with the occurrence that, while in Mylapore there is a shower of rain, in Triplicane there is none. In such places it is Providence that has chosen to shower the rain, but this Bill seems to enact that these people upon whose piece of land a merciful Providence has dropped a shower of rain shall not retain that water, shall not keep it for themselves by impounding the water by high ridges called *achukathas* in the Chingleput and the neighbouring districts but that they should allow it to flow away into other people's fields and provide for other people's wants. It is confessed in the Statement of Objects and Reasons that the Bill is not in consonance with any existing law but that it is a logical extension of some principle laid down in a certain decision in 40 Madras. So it is a question of extending the rope round the neck of some of these people. Here is a piece of land belonging to a poor man or a zamindar and though Government may not do anything, for supplying water and it is the hand of Providence that supplies it with water, this Bill seeks to punish him for using it to its full extent. But what I wish to lay particular stress upon is that a Bill prepared by a lawyer of high repute, by one who has been a Judge of the High Court, shows such utter suspicion of the justice of Courts of Law including the Privy Council, and it is sought in this Bill to take away the power of judicial courts in dealing with the acts of the executive. I do not know, Sir, whether this Bill is intended as a testament, the last will and testament of one who has practised so successfully in courts and who by his skill has been able to prove that right is wrong and that wrong is sometimes right, that he verily believes that in Courts of Law we will not be able to get justice. In the place of Courts of Law, the hon. the Law member seeks to establish what are called 'special tribunals' such as we hear of in Malabar, but consisting of two executive officers, one a Revenue officer of not less than 12 years' standing, another an Engineer not below the grade of Assistant Engineer and a nobody who may have no independence of judgment and even if he has, who may be outvoted by his two official colleagues. Executive officers, say an Engineer or his assistant or a Revenue Officer, cannot be expected to decide matters in an impartial spirit, and surely even the poor man would prefer the Courts of Law. Therefore this Bill is not conceived in the right spirit and it seems to be rather in the spirit of placing fetters round the feet of

the unfortunate people, whether they be zamindars, or whether they be poor ryots whom the Bill professes to benefit.

" Another question. My friend Mr. Seshagiri Rao said that in the Godavari and Kistna districts the Government have been able to do a good deal, and he also stated that the construction of irrigation works by Government has improved those districts enormously and much more than the other districts. Is it suggested that because there is no such law as is now proposed to be introduced that other irrigation works have not been undertaken by the Government or that they found difficulty in dealing with the zamindars in allowing such works to pass through their lands? I feel, Sir, that there is absolutely no justification, no facts and figures to justify this wholesale attempt at getting hold of other people's properties. No doubt we have been referred to the well-known principle of Bentham " of seeking the largest benefit of the largest number " and that has also been the theory propounded about the time of the French Revolution, but we are not working here as socialists trying to distribute wealth belonging to one class of people between all classes of people, the rich and the poor. Let us respect the rights of property and try to bring in such a measure as will safeguard the rights of the people."

The hon. Sir K. SRINIVASA AYYANGAR :—" Mr. President, I certainly shall not indulge in rhetoric as most of my hon. friends have done. I am afraid in spite of the elaborate arguments which I advanced in my opening speech most of the criticisms have been passed either on a misreading of the clauses or without any reading of them. I shall classify these criticisms instead of wasting the time of this House in dealing with either individual clauses or with the details which hon. Members have brought forward before the House.

" As I said at the outset, the Bill is based upon three principles, and the rest is merely the execution or the carrying out of these principles. They are, I may reiterate, the State control of all natural waters subject to preservation of all rights acquired till the State takes control as well as also of future rights which have not yet been recognized by any law in this land. One hon. Member said that if, for instance, a certain quantity of water is going through an irrigation channel belonging to a zamindar, out of which he cultivates only 500 acres and if under clause 7 the Government assumes control, then he will be debarred from increasing the irrigation by a single acre. Now, Sir, in the very beginning I pointed out that that would be wholly wrong. He would be entitled to take the water and irrigate the land to the fullest extent possible, whether he is irrigating 500 acres or 100 acres or not utilizing the water at all. That I explained and that is the provision which is made under clause 8. But if in spite of that explanation, hon. Members still advance such an argument, I can only say that I cannot answer it.

" Then, Sir, there was an argument advanced by one of the hon. Members—I believe it was the Raja of Ramnad—which certainly was frank. It is this. At the time of the permanent settlement when the Government granted the land, they granted also all the water which was running through the zamindari, whether it had its origin elsewhere or flowed into his zamindari from other regions and whatever was the quantity which he was entitled to take ; every stream which came along into his zamindari could be utilized as he pleased. He asks 'why should Government interfere?' Does he realize

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that, if that is the right which the zamindar claims, that is, that he is to be at perfect liberty to draw off every drop of water which comes along the stream into his zamindari, he will be preventing everybody else from utilizing that water which is also his property? Then does he believe that any irrigation work is possible in this land, if this is to be the case? I shall instance a small case which is at present pending the decision of the Government. We are now putting up higher shutters in the Bezwada anicut to impound the Kistna water for the purpose of safeguarding the existing irrigation in the delta. If the Raja's contention is right it may be said there are proprietors lower down the Government who cannot put up those shutters and impound those waters, because, according to the contention of the Raja of Ramnad, the lower proprietor, whether he is going to use the water or not, must have the right to have the whole quantity of water running along with the option of using it whenever he chooses or whenever he is able to utilize it. I thought I was at some pains in the beginning to show that that is an impossible position in India. He says that all irrigation works should be subject to the grant of the permanent settlement."

The RAJA OF RAMNAD:—"What I said was that you have irrigation works, and if you cannot improve them hereafter, then do not try to extend irrigation works into others' waters."

The hon. Sir K. SRINIVASA AYYANGAR:—"The difficulty seems to be that it is *water*, but not like any stone or any mineral locked up in your land. That is what is not understood when much is talked about the grant, or 'my water'. At the time of the permanent settlement certain irrigation systems existed for irrigating a particular tract of land, and when the land is assigned, it means that you assign it along with the irrigation facilities, and it is not pretended that the Bill takes away any of the irrigation facilities except on payment of compensation, and I think that nobody can object to such a provision. But to say that every drop of water from any stream which may take its rise elsewhere, should form part of the land according to the original grant of the land, and that the grant gives the right to absorb all waters and compels the Government to allow these waters to flow along the estate, is an impossible position.

"Now, I shall deal with a few criticisms of the Zamindar of Challapalli, and again I have this complaint to make against his speech. It is that in spite of the anxious care with which I read the clauses and pointed out that there was no indication whatsoever in any portion of the Bill to deprive the zamindars or any other person of any vested rights, he still advanced the argument that the Bill would interfere with the existing rights.

"It is subject to all vested interests which have been acquired prior to the assumption of control that the Government can, as a State, assume that control. That is the position which I have explained in dealing with sections 6, 7 and 8. These clauses contain the principles of the Bill taken along with the principle of compensation wherever private rights are annexed or taken in the interests of the State.

"Now, an observation was made that, as to the case of 32 Madras, the decision had been over-ruled by the Urlam decision and in what is called 'the Bobbili case' also. Here again, I took some pains to point out that the Urlam decision in terms approved the decision in 32 Madras in respect of the right of the State to regulate the waters which have not been previously

appropriated, that is, of the rights which have not been previously acquired as against the Government. In the latter case, i.e., the Bobbili case, it was a confirmation of a decision of the Madras High Court. The Madras High Court in terms stated that the question of the levy of water cess or right to irrigation has nothing whatever to do with the right of the State to control and distribute and collect natural waters by virtue of their prerogative right. I am again emphasizing this point so that there may be no misapprehension with regard to that matter. The case which went up to the Privy Council was from a judgment finally of the Chief Justice Wallis and another learned Judge. It was the Chief Justice Wallis who, when he acted as Advocate-General, argued for the position with regard to State control, whose arguments were accepted by the Court after discussion. As I said before, I repeat that there has been no case which has in any way detracted from the position taken in the case of 32 Madras, and not merely that the Privy Council expressly referred to it in the Urlam case which is here spoken of as giving the right to zamindars but it practically confirmed it. That case in 32 Madras with regard to the appropriation of waters is different from the English law of riparian rights. That I tried to explain to this House which consists, to a large portion, of a lay audience, and I tried it as far as it was possible for me to do. Now, the same learned Judge against whose judgment appeal was made, which judgment was confirmed by the Privy Council in the Bobbili case, says this: 'The important and difficult questions . . . as to which there has been much difference of opinion relate to the defect in the provisions of the Madras Water Cess Act VII of 1865 as amended and have *nothing to do with any right of Government to control and distribute all waters for irrigation purposes as to which there is a saving in the Easements Act and in the decision in Fisher* v. *Secretary of State.*' After this to say that the Privy Council interfered with this judgment of 32 Madras is unmeaning. Now a suggestion was made. . . "

The RAJA OF RAMNAD:—"May I just interrupt? As far as my recollection goes, the papers never went before the Privy Council."

The hon. Sir K. SRINIVASA AYYANGAR:—"I did not say it did. However, I cannot be arguing questions of law here. That must be settled elsewhere. I have taken all these provisions from the existing laws. If in the Select Committee or elsewhere it is found that any provision is defective or that it has not at any rate provided for any particular right which had been recognized by anybody, by all means you may put it. But so far as I have been able to see, I have provided safeguards for the existing rights and I am anxious that all the rights that anybody says that he has got should be protected.

"Now, a suggestion was made that as in the case of water companies or canal companies you make a general provision and then any such company which claims to make an irrigation work can come in. I do not know whether the House realizes that in cases of water companies you have got similar provisions also in India for private adventurers joining together as a joint stock company or otherwise carry out particular irrigation schemes. But this Act gives power to the State to undertake such schemes, and to control those waters in the best interests of all concerned, that is the agricultural population. What success attended a private adventure in the well-known Cuddapah-Kurnool canal scheme which was once started by a company under the powers given to them by a particular

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Act, we will see. Except for the fact that the Government came to their rescue by paying a very large sum, the company would have gone into liquidation and the shareholders would not have received one anna in the rupee. We are now having it and we are losing on the capital which we have invested. That is the result of a private adventure in undertaking a large scheme of water-works for the purpose of irrigation. I find that the idea prevalent is that the Executive Government should so arrange that there will be plenty of water for all but that they shall not levy any cess at all. As I have pointed out in my note, this is not a taxing measure at all. If, for instance, there should be any improvement in irrigation, you have to spend large sums of money which you could get only out of borrowed money. I have insisted in the note that we have at present projects which would cost in the long run nineteen crores of rupees and which would irrigate about two million acres of land. Supposing, for instance, you have got no irrigation law, what is going to happen is this : as soon as a project is undertaken, one man may say that he has got a grievance or that it has interfered with some rights of his, and he will file a suit for the determination of those rights, and probably get an injunction from the court. What will become of the project in the meantime ? It will be hanging in the air. Is it not necessary for the Government, before they borrow large sums of money and commit themselves to any large storage works, that they should have some guarantee that they will be able to pay at least the interest on the money borrowed. That is all which is provided for in one of the chapters of the Bill, namely chapter VI, to which objection was taken. All those provisions were drawn up with some care. Here again, I may say that all the arguments were directed to only one section of that chapter about which Mr. B. Muniswami Nayudu was very strong, viz., that it was not merely not going to benefit the people but it was going to hurt them ; that is the provision as regards the levy of special rates. He said that the Collector would make an inquiry and then say that it is beneficial and that everybody would be bound by it. It is not so. In cases where two-thirds of the persons who will be benefited are agreeable to a particular scheme, then alone we have the power to proceed with that scheme. The object is this. At present, under the irrigation law prevailing here, that is the Irrigation Cess Act, it is at the option of a particular person to take the water or not. If he does not take the water you are not entitled to levy a single rupee of cess. Then again, for instance, the cess, as you all know, varies from about Rs. 2½ or Rs. 3 in Ganjām to Rs. 5 in the Kistna district. We have made a number of calculations as regards the projects, and let me take one of the projects as an illustration—one which is called the Mettur project. The Mettur project is likely to cost about six crores of rupees and it is expected to give a total revenue of about Rs. 30 or 35 lakhs altogether. If that project goes through, it will give sufficiency of water even to the tail-end lands in the delta and safeguard the existing irrigation. It will give you an extension of cultivation to the extent of 275,000 acres. Owing to the delay in going on with this project it has been found that in the present state of the money market even assuming that you are in a position to get money at 6 per cent, unless you levy a water-rate of Rs. 10 per acre, it is impossible to pay even the interest charges on the borrowed money. If of course you get cheaper money later on, it may be possible for you to reduce the rate on account of water-tax. It is a matter of common knowledge that

there has been a large demand for water even in the developed districts like Kistna and Gōdāvari and that people want water and are anxious to pay as much as you can reasonably demand for the inclusion of their lands in the wet area. They are willing to pay, if necessary, if you give them facilities for irrigation, a larger rate than what they are paying now. No doubt, nobody wants to pay if he can help it. But if the Government is to undertake those irrigation works, there must be some guarantee so that they may get back at least the interest on the sums which they borrow, and at the rate of interest prevailing just now it would require a rate of at least Rs. 10 per acre before you can pay interest and the maintenance charges. Such a guarantee besides giving the Government a return which will be equal to the interest they have to pay, will so largely increase the produce of the lands to the great benefit of the agricultural population. Now, is it a sin that the Government should want before they embark upon such a large adventure as that, that they shall have some guarantee that there should be a reasonable return on the money that they have got to borrow and invest on the project? From the revenues you cannot get the funds for the projects which have been investigated. They should be met out of borrowed money. If there is such a guarantee for a reasonable return on the capital to be so borrowed and invested, the cost which will then be nearly Rs. 20 crores can be borrowed. Now, that is the basis of chapter VI, and let me deal with only one section of that chapter.

"'Whenever it appears to the Local Government that the construction, improvement or maintenance of an irrigation work in any local area is not likely to be remunerative, unless on the lands irrigable by such work, payment of water-cess at certain specified rate is guaranteed, the Local Government may direct the Collector or any other officer to make inquiries as to whether it is desirable to undertake such work.' This according to the hon. Member (Mr. Muniswami Nayudu) is going to hurt the masses.

"A complaint was made on behalf of the ryotwari tenants by my friend Mr. Somasundaram Mudaliyar and also on behalf, I presume, of the proprietors that provision is made for the increased levy of water-cess with improved irrigation. Probably the members of the House know that as regards the ordinary ryotwari land, the cess or tax or whatever you call it depends on the settlement and to a large extent upon the classification of irrigation sources as class I or class II or class III. If at a settlement owing to the defective irrigation system you classify a land as coming under class III, and if in the meantime you spend out of the revenues of the country to improve that irrigation so as to make that land first class, even now there is a rule that the Government shall be entitled to re-classify the lands according to the nature of the irrigation source; that is where the levy of enhanced assessment comes in so far as the ryotwari land is concerned.

"Then again, apart from the irrigation facilities which existed at the time of the settlement, if money is spent by the Government for improving this irrigation source and you are benefited thereby, is it not right that you should give back something in return for what the State has done for you? The Government, after all, are trustees for the whole of the agricultural population and they may borrow money or spend out of the revenues for their benefit; otherwise they will have to raise this money by means of taxes or in some other way; and it is really on the same agricultural people that the taxes will fall. I have now dealt with what I may call the principles of the Bill.

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"I have got to answer my friend Mr. Ramachandra Rao. His whole complaint seems to have been that the smaller irrigation officers do their duty badly or do not do their duty properly owing to corruption. Unfortunately, Sir, he even complained that a lawyer like myself who had about quarter of a century of practice behind his back should now try to strengthen the hands of the executive without allowing freedom of recourse to courts against any action of any administrative officer."

Diwan Bahadur M. Ramachandra Rao Pantulu :—"I do not think my hon. friend is correct. I never said that they should all and sundry resort to courts, nor did I say anything about the corrupt practices."

The hon. Sir K. Srinivasa Ayyangar :—"There are certain matters which are merely administrative, and if you take them before courts no administration will be possible. I shall give you a small instance as it occurred in my experience. I will lay aside for the present the complaint of my whole nature having been corrupted by my association with bureaucrats."

Diwan Bahadur M. Ramachandra Rao Pantulu :—"I am afraid my hon. friend has either wilfully misunderstood me or is trying to pit at something against me. I never said that his nature has been corrupted by association with bureaucrats. My friend knows me long enough, and I am certain the bureaucrats know him long enough to make any such implication either against my friend or against my other hon. friends who are bureaucrats in this Council."

The hon. Sir K. Srinivasa Ayyangar :—"I beg your pardon. I was merely indulging in a little bit of rhetoric which I thought was not the monopoly of non-officials.

"Wherever property rights are affected, there should be recourse to the ordinary courts. For instance, in fixing mamool wet land, which is a property right because that determines the quantity of land which will be entitled to irrigation free of charge, in such cases the decision of the Collector is not final. You will see it in the very beginning of the section where you deal with this mamool wet. Under section 46, clause 2, 'the extent of mamool wet land shall be settled by the Collector, subject to the control of the Board of Revenue and the Government. Where the settlement is not accepted by the landholder the Collector shall refer the matter to the civil court'. With regard to localization it is true we do now allow resort to the court, because localization is an administrative matter. For instance, if you are entitled to have irrigation free for a block of 500 acres, you may select different pieces of land at different places and irrigation has to be supplied to all these lands. You will see at once that a very large quantity of water is being wasted in this way whereas that quantity may be used for additional irrigation to more favourably situated lands. Now I am trying to prevent resort to courts in matters which are more or less administrative and where the intention of the Government is to conserve this water for utilizing it for the best benefit of all. Wherever private interests come in, you may resort to civil courts. In regard to compensation, except in regard to matters which are trifling or where compensation is lower than Rs. 1,000, you have got your remedy in courts. If there are provisions which I consider to be administrative in nature, but which are not so and which involve property rights, I for one would not allow a mere administrative department to deprive a person of his rights.

" The other charge is that these administrative officers are giving trouble. With regard to that, there may be two sides to the question. For instance in the Periyar, in what is called the Cumbam valley, practically the whole channel has been cut open from place to place and water taken off free. The harshness of the levy four or five times the usual fee in such cases is only as it should be. These systems are intended to provide for a particular ayacut. It has been found that that ayacut has been largely exceeded either by taking water without permission or by taking permission when there was a large quantity of water in the system. In that way it has been found that, in the Kistna delta, a very much larger quantity of land is now crying for water. If you do not interfere with the mischief of persons who are not entitled to water taking water to some place or other, what will be the position of persons who are entitled to water and who are paying water-rate to Government. In this unauthorized taking of water it naturally occurs that a very large quantity is being wasted. I shall illustrate it again. In Cumbam, at the beginning of the Periyar, channels were cut up by persons and much water was being taken. The ryots there were willing to pay as much as Rs. 100 on an acre as water charge. Water was so much needed by them. Unfortunately, the Periyar system was intended to give water only to a certain limited extent. If water is not given to persons who are entitled to it, will the Government be doing its duty? It is in these cases that administrative authority was necessary. But if in any particular case it is found that the inferior officers are given undue power, the remedy is in your hands. It is not the intention of the Government to leave it entirely in their hands. It is the Government that delegate powers to them, and they will take care that such delegation is only to superior officers who will be expected to do their duty without corrupt motive. I shall pass on. I consider that most of the criticisms on certain of the sections are due to misapprehension or a careless reading of them. I do not propose to go through all sections. I want to draw your attention to one section. I draw your attention to section 12 to which my hon friend, Mr. Venkataramana Ayyangar, referred. He said that it is a confiscatory provision, because you can take away water at your choice from a particular person. The clause referred to is sub-clause 2 to section 12. 'No right to receive a supply of water *from any particular irrigation work* shall be or be deemed to have been acquired against the Government under any custom or contract.' The word 'particular' has been lost sight of. This provision is absolutely necessary in the interests of a fair distribution of water. You may find that a particular man is not getting water at a particular place not in the sense that he does not get any water but in the sense that the water he gets does not flow to him from a particular source. Government should look after a fair distribution and conservation of water, so that it may reach a large number of people. If you suffer damage, you get compensation under section 38.

" Then, Sir, a comp'aint was made as to the dumping of earth. If you dump earth or enter on a land for the purpose of setting right an irrigation work which is under the control of Government, the man affected is entitled to compensation. Here I may instance a case in the Madras High Court. There was a channel connecting a series of tanks. The tail end of it and the top belonged to the Government, and the middle of it belonged to a zamindar. The Government, for the purpose of giving a full supply to the land at the tail end which was a Government village, wanted to make certain

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repairs to the calingulas. This could not have affected the zamindar at all. But he filed a suit for injunction for preventing the Government from trespassing on his land.

"Is that a fair way in which the Government is to be asked to do their duty towards their subjects? That is all that I have got to say, Sir, with regard to the hardship of the pen being dipped in the blood of some one.

"Serious objection was taken and I may be pardoned for saying that I entirely sympathize with it, with regard to compulsory labour. It is not my work. It is a legacy which I got from an old Act of 1858. It is called Compulsory Labour Act. I think that the old Act (it was not passed in democratic days) says merely members of the labouring classes shall be compulsorily asked to work. I may say personally, if the House can provide some other machinery for the purpose of supplying labour in times of emergency, I shall be very glad. I made the Act more democratic, that nobody shall escape (adults, and able-bodied persons) when emergency arises. I certainly think that every hon. Member, however high he may be, should shoulder a bundle of straw or carry a basket of bricks for stopping a breach when an emergency arises. That is the change the Government have made. We have changed the words 'labouring classes' into 'able-bodied males'. For, I cannot understand who are the labouring classes. If it is physical labour, most of us are doing that—I myself am doing physical labour when I am speaking to this audience (laughter).

"Then, with regard to the complaint made by Mr. Somasundara Mudaliyar that I am trying to settle a vexed question, viz., the definition of Government land, may I beg his pardon if I draw his attention to the definition of Government land in the Survey and Boundaries Bill which contains precisely the same definition? Apparently it did not strike any hon. Member here then that the Government introduced a very drastic provision for the purpose of plundering proprietors. After all, the House must remember that the definition is merely for the purpose of this Act. The hon. Member said what became of the house-site. Is the house-site getting water for irrigation, I wonder? What is the object of making these remarks without reading the provisions of the Bill with some care?

"I have only a word more to say with regard to some questions which were raised. They are merely questions of detail. A question was put whether a natural pond which was wholly situated in a proprietor's estate would be liable to be taken hold of by Government. The difficulty in answering a question of that sort is this. Because, an estate which may be one in which the tank or the river may be situated wholly, may temporarily belong to 500 proprietors. The same river or the pond which to-day may belong to one proprietor, may have belonged to a number of proprietors before. Hon. Members must take it that the executive Government are not mortal enemies of their subjects but that they try to do their best on behalf of their subjects and as their trustees. If they go wrong, it is for the Legislative Council to set them right. The point is this. Take, for instance, the Kolair lake in the Kistna district. There are a very large number of proprietors on its banks. They are all riparian proprietors. Supposing the Government want to control it to make it useful for further cultivation, what shall be their position? Shall they utilize any portion of that water by taking control so as to benefit the dry area? These are all questions which you may raise. The power is taken by the Government. The

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House may be perfectly certain that the Government would not care to interfere with a small tank which irrigates only half-a-dozen or so acres whether in a zamindari area or other place. It must be left to the discretion of the executive. There is no use in assuming that the executive must be perverse and therefore legislation must proceed on that assumption. That is all that I ask you to do. You should not introduce harassing limitations in the way of the executive doing their duties. Provide by all means that they shall not go wrong. It is on that basis that I framed this Bill and gave power to the administrative officers in order that they might do their duty.

"At this time of the day I do not want to fortify my arguments with regard to the administrative position by reading quotations. I shall, however, give reference to a document from one of the most advanced States of the United States. You may read it for profit or amusement. The reference is in 60 Law Reports Annotated. I will place the book here so that if anybody requires he may read it. It is at page 889 and the passage occurs at page 906. It is with regard to the division of administrative functions and judicial functions. The same complaint was made there that the Government were taking away the power of the court and vesting it in a special board. It is in one of the States of America where they have got, I believe, 'democracy'."

The Raja of Ramnad moved for closure which, however, was not put to the House.

The motion that the Madras Irrigation Bill be read in Council was put to vote and declared lost.

The hon. Sir K. Srinivasa Ayyangar demanded a poll with the following result:—

Ayes.

1. The hon. Sir Charles Todhunter.
2. ,, Sir Muhammad Habib ul-lah Sahib.
3. ,, Sir K. Srinivasa Ayyangar.
4. ,, Mr. A. R. Knapp.
5. Mr. C. P. Ramaswami Ayyar.
6. Mr. E. S. Lloyd.
7. Mr. A. Y. G. Campbell.
8. Mr. E. F. Thomas.
9. Diwan Bahadur L. A. Govindaraghava Ayyar.
10. Mr. C. V. Venkataramana Ayyangar.
11. Rai Bahadur T. M. Narasimhachariu.
12. Diwan Bahadur D. Seshagiri Rao.
13. Mr. R. Srinivasa Ayyangar.
14. Mr. T. C. Srinivasa Ayyangar.
15. Rev. W. Meston.
16. Mr. M. Suryanarayana.
17. Mr. A. Ranganatha Mudaliyar.
18. Mr. T. Sivasankaram Pillai.
19. Rao Bahadur T. Namberumal Chettiyar.

Noes.

1. Rao Bahadur T. A. Ramalinga Chettiyar.
2. Mr. K. Adinarayana Reddi.
3. ,, S. R. Y. Ankineau Prasad.
4. Mr. M. Appalanarasayya Nayudu.
5. ,, R. Appaswami Nayudu.
6. Rao Bahadur V. Appaswami Vandayar.
7. Rao Bahadur P. C. Ethirajulu Nayudu.
8. Diwan Bahadur Sir P. Tyagaraya Chettiyar.
9. Rao Bahadur T. Balaji Rao Nayudu.
10. Diwan Bahadur M. Krishnan Nayar.
11. Mr. C. Ramalinga Reddi.
12. Diwan Bahadur T. Sivagnanam Pillai.
13. Rao Bahadur O. Tanikachalla Chettiyar.
14. Mr. W. Vijayaraghava Mudaliyar.
15. Rao Bahadur K. Gopalakrishnayya.
16. Mr. J Kuppuswami.
17. ,, B. Munuswami Nayudu.
18. ,, A. T. Muttukumaraswami Chettiyar.
19. ,, M. Narayanaswami Reddi.
20. Rao Bahadur C. Natesa Mudaliyar.
21. Mr. V. P. Pakkiriswami Pillai.
22. ,, C. Ponnuswami Nayudu.
23. ,, P. T. Rajan.
24. Rao Bahadur A. Ramayya Punja.
25. Mr. K. Sarabha Reddi.

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Noes—cont.

26. Mr. Saundarapandia Nadar.
27. ,, R. K. Shanmukham Chettiyar.
28. ,, K. Sitarama Reddi.
29. ,, T. Somasundara Mudaliyar.
30. Mr. A. Subbarayudu.
31. ,, P. Subbarayan.
32. Diwan Bahadur K. Suryanarayanamurti Nayudu.
33. Mr. A. Tangavelu Nayagar.
34. Rao Bahadur C. Venkataranga Reddi.
35. Diwan Bahadur M. Ramachandra Rao Pantulu.
36. Rao Bahadur A. S. Krishna Rao Pantulu.
37. ,, C. V. S. Narasimha Raju.
38. Diwan Bahadur R. Venkataratnam Nayudu.
39. ,, Sir T. Desika Achariyar.
40. Mr. M. R. Seturatnam Ayyar.
41. Mr. T. Arumainatha Pillai.
42. Rao Sahib E. C. M. Mascarenhas.
43. Mr. A. T. Palmer.
44. ,, M. Ratnaswami.
45. The Raja of Ramnad.
46. Sri M. V. Apparao Bahadur.
47. Mr. K. Prabhakaran Tampan.
48. ,, A. D. M. Bavotti Sahib.
49. ,, Koya Sahib.
50. ,, Abdur Rahim Khan Sahib.
51. Khan Sahib Munshi Muhammad Abdur Rahman Sahib.
52. Mr. Saiyid Diwan Abdul Razaak Sahib.
53. Khan Bahadur Muhammad Sadulla Badsha Sahib.
54. Khan Bahadur Muhammad Usman Sahib.
55. Rao Sahib M. C. Madurai Pillai.
56. Mr. G. Vandanam.
57. Rao Sahib P. Venkatarangayya.

Neutral.

1. The hon. the Raja of Panagal.
2. The hon. Rai Bahadur K. Venkatareddi Nayudu.
3. The hon. Rao Bahadur A. P. Patro.
4. Rao Sahib T. O. Tangavelu Pillai.
5. Mr. S. T. Shanmukham Pillai.
6. Diwan Bahadur P. Kesava Pillai.
7. Mr. S. Muttumanikkachari.
8. ,, C. R. T. Congreve.
9. Mr. A. M. MacDougall.
10. ,, S. Somasundaram Pillai.

19 voted *for*, 57 *against*, 10 remaining *neutral*.

At this stage the Council adjourned to meet again at 11 a.m. to-morrow.

L. D. SWAMIKANNU,
Secretary to the Legislative Council.

APPENDIX F.

[Vide page 1293 supra.]

Proceedings of the Fourteenth Meeting for 1922–1923 *of the Standing Finance Committee of the Madras Legislative Council held at Fort St. George on Saturday, the* 16*th December* 1922.

PRESENT:

(1) The Hon'ble Sir CHARLES TODHUNTER, K.C.S.I., I.C.S. (Chairman).
(2) M.R.Ry. Rao Bahadur C. NATESA MUDALIYAR Avargal.
(3) Khan Bahadur MUHAMMAD USMAN SAHIB.
(4) Dr. P. SUBBARAYAN.
(5) M.R.Ry. Rao Bahadur T. A. RAMALINGA CHETTIYAR Avargal.
(6) ,, A. RANGANATHA MUDALIYAR Avargal.
(7) Mr. A. M. MACDOUGALL.

(Messrs. O. TANJKACHALA CHETTIYAR and W. ALEXANDER did not attend.)

Read proposal for the confirmation of the subordinate staff in the Co-operative Department.

After discussion with Mr. J. M. Turing and prolonged deliberation, the Committee accepted the proposal subject to the condition that no retrospective effect should be given, but Fundamental Rule 156 would apply.